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ABSTRACT

The report summarizes the concerns that emerged during the nine regional conferences of the Consortium on the Education for All Handicapped Children Act (Public Law 94-142). Part I provides an overview with brief coverage of the historical background of legislation for the handicapped, the legislative background specific to P.L. 94-142, and the activities of the Consortium along with some implications the Consortium may have for improving the education policy process. Results and recommendations from the nine regional conferences are summarized in Part II for issues which include the state education agency's role, funding, provision of an individualized education program, and due process and procedural safeguards. Appended is a list of resources related to the law; assessment, placement, and the least restrictive environment; special education financing; individualized education programs; parent issues; personnel development; planning for the education of the handicapped; public policy and children's rights; and testing. (SBH)

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EDUCATION POLICY AND THE EDUCATION FOR ALL HANDICAPPED CHILDREN ACT (P.L. 94-142)

ED 130800

A Report of Regional Conferences, January-April, 1977

Cosponsored by:
Education Commission of the States
Institute for Educational Leadership
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Bruce O. Boston

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Consortium on the The Education for All Handicapped Children Act

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Washington, D.C. 1977

FOREWORD

All of us have heard P.L. 94-142, The Education for All Handicapped Children Act, and Section 504 of the Rehabilitation Act of 1973 referred to, over and over, as "landmark legislative Acts." And so they are. Yet, we need to remind ourselves continuously that the translation of lofty ideals expressed in law into practical and effective deeds demands equally continuous hard work. Converting legitimate unmet human needs into effectively functioning legal rights requires, in the words of HEW Secretary Joseph A. Califano, an unusual degree of "sensitivity, fairness and common sense" in the long, arduous, and necessarily controversial processes of implementation. Before decades of discrimination against handicapped persons will yield completely to the force of law and the innate decency of the American people, all of us will have to change our behavior, and not merely our rhetoric.

Precisely in this spirit of "sensitivity, fairness and common sense" the Bureau of Education for the Handicapped responded positively to the Institute for Educational Leadership's proposal to construct the Consortium for the Education of All Handicapped Children Act. The Consortium started from the two-fold recognition that all laws depend for their ultimate effectiveness on the consent of the governed and that the resources, management skills and implementing strategies of the states' lay political leadership would be essential to the success of P.L. 94-142. Together with our partners in governors' offices, legislatures, state educational agencies and state boards of education, we have learned that there is a deep reservoir of good will and great ability which can, indeed, be tapped to realize fully the vast promise of P.L. 94-142 and Section 504. To turn those "landmark Acts" into living reality is not merely our responsibility but our welcome challenge.

Edwin W. Martin, Jr.
Deputy Commissioner
Bureau of Education for
the Handicapped
U.S. Office of Education

Samuel Halperin
Director
Institute for Educational Leadership
The George Washington University

Acknowledgements

The relatively brief life span of the Consortium on the Education for All Handicapped Children Act (P.L. 94-142) has been an intensive seminar, not only in federal-state relationships and the education policy process, but also in the building of the personal relationships without which those otherwise noble enterprises tend to become abstract exercises.

This undertaking would not have seen the successful achievement of its goals without the efforts of many: Jim Browne of the Institute for Educational Leadership staff, who launched and initially directed the project; Roy Littlejohn Associates, who handled the logistical arrangements; and the staff members of the Consortium organizations who sustained its work. These include Wes Apker and Bill Brown of NASBE, Bill Wilken and Shirley Diamond of NCSL, Warren Hill, Gene Hensley and Carolyn Zollar of ECS, and Gail Moran of NGC. Support and assistance from the Bureau of Education for the Handicapped were provided by Edwin Martin, Jr., Dan Ringelheim and Maurine Ballard (Kukic).

Bruce O. Boston
Consortium Coordinator

Washington, D.C.
August 1977

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Executive Summary

EDUCATION POLICY AND THE EDUCATION FOR ALL HANDICAPPED CHILDREN ACT (PUBLIC LAW 94-142)

A Report of Regional Conferences, January-April, 1977

Background

Why Was This Report Prepared?

In May 1976, shortly after the enactment of P.L. 94-142, the Institute for Educational Leadership (IEL) proposed to the Bureau of Education for the Handicapped (BEH) that a series of four conferences be held to: (1) inform state-level executive, legislative, and lay political leadership of the objectives and requirements of P.L. 94-142; and (2) identify and discuss the specifics of several policy issues associated with the implementation of the law at state and local levels. IEL further proposed that the conferences be held under the auspices of a Consortium comprised of the National Conference of State Legislatures (NCSL), National Association of State Boards of Education (NASBE), National Governors' Conference (NGC), and IEL. BEH funded IEL's proposal for what became Consortium I.* The success of Consortium I led to Consortium II—an expanded round of nine regional conferences designed to

* Reported in *The Education for All Handicapped Children Act Public Law 94-142* by Carl Dolce, The Consortium on the Education for All Handicapped Children Act, Institute for Educational Leadership, The George Washington University, 1977.

"go nationwide" with a similar forum and mission. At this point, the Education Commission of the States (ECS) joined the Consortium and helped assure even more broadly based participation in the conferences.

The specific purposes of the nine regional conferences of Consortium II were:

1. to provide a national forum for expressing state-level concerns raised by P.L. 94-142, and the regulations proposed for its implementation;

2. to provide information to the states about the law and the proposed regulations and, equally important, feedback to the federal government on questions and problems of implementation; and

3. to undertake an innovative approach to the education policy process by bringing together leaders from state and federal governments, by forming state "caucuses," and through them responding to the law and the proposed regulations.

The main purpose of this report is to summarize the concerns that emerged in the nine regional conferences and the recommendations advanced for alleviating those concerns.

Who Attended the Regional Conferences?

The two series of Consortium conferences (four under Consortium I and nine under Consortium II) brought together representatives from every state except Alaska and Hawaii, and included the District of Columbia and Puerto Rico. There were a total of nearly two hundred participants from the states.

Because of the unique composition of the Consortium, the regional conferences were able to bring together a diverse, but strategically important "caucus" from each state. These "caucuses" included representatives, senators and key staff from state legislatures, members of state boards of education, governors' aides, and chief state school officers or their designees, usually including the special education administrators from state education agencies.

Staff members from Consortium organizations provided direction and staff support for the conferences and BEH provided key conference speakers.

What was the Agenda for the Conferences?

While each of the nine regional conferences had its distinctive flavor, the basic format remained constant. Following initial presentations by BEH staff, which set the general context, each caucus identified the general issues most pertinent to their state and discussed:

1. What barriers to implementation exist in state law?

2. What barriers to implementation reside in regulations, practices, or in interdepartmental coordination?

Following the initial state caucuses, a general session was held to share results. Consortium staff then met and grouped the issues raised into three areas:

1. statutory issues

2. regulatory issues

3. administrative issues

A second meeting of the state caucuses was then devoted to developing recommendations of the states: (a) to the Congress—statutory, (b) to BEH—regulatory and administrative, and (c) to themselves—statutory, regulatory, and administrative at the state level. Two questions were used to facilitate this process:

1. What legislative and regulatory changes at the state level do you recommend in order to facilitate implementation?

2. What legislative and regulatory changes at the federal level do you recommend in order to facilitate implementation?

What Does the Report Tell Us?

An Overview

Part I of this report sets the context with brief coverage of three topics: (1) the historical background of legislation for the handicapped, (2) the legislative background specific to P.L. 94-142, and (3) the activities of the Consortium, together with some implications the Consortium may

have for improving the education policy process. Part II of this report provides an issue-by-issue summary of the results and recommendations of the state caucuses at the nine regional conferences of Consortium II.

Part I—Setting the Context

Historically, P.L. 94-142 can be seen as both a culmination and a fresh departure in special education legislation. It caps a century and a half of attention to the needs of handicapped children and because, under its authority, federal funds are permanently authorized, it assures continuing attention to the needs of handicapped children on the national education scene. Some of the more significant aspects of the law are the universality of its application and the integration of purpose between P.L. 94-142 and Section 504 of the Rehabilitation Act of 1973, which assures that education for handicapped children is a matter of civil right.

The unique composition of the Consortium, the low pressure and non-adversarial environment of the conferences, the cross-fertilization of ideas among the states, and the Consortium's contribution to strengthening federalism in education are presented as the most significant implications the Consortium's activities had for improving the education policy process.

Part II—The View From the States

Part II is the heart of this report. P.L. 94-142 places the burden for assuring the provision of educational services to handicapped children squarely on the shoulders of the states. They are required to provide plans, personnel, and procedures for seeing that the goals of the law are met. Not surprisingly, the law creates difficulties for the states, both in its general and specific provisions. Part II summarizes, issue by issue, the difficulties and resultant concerns that emerged in the nine regional conferences and the recommendations advanced for alleviating these concerns. Because what follows is necessarily brief, the reader is encouraged to read Part II of the report, which begins on page 21.

Four issues of concern were identified as being particularly troublesome for the states. The first of these was the issue of *the state education agency's supervisory role,* namely, how extensive and strict a supervisory/compliance role will the federal government demand? It was recommended that BEH remain flexible on this issue and provide a "grace period" to allow states time to get their respective houses in order. It also was recommended that P.L. 94-142 be amended to allow SEAs to exercise their supervisory function in accordance with state, not federal, law.

The second particularly troublesome issue was *funding*. Five specific problem areas were identified: start-up costs, excess costs, the $7,500 minimum, administrative costs, and commingling and supplanting of funds. Recommendations to resolve the problem of start-up costs included proposals to raise the multiplier (the percentage share of annual expenditures to be borne by the federal government) from 5% to 7.5% in the initial year, or to amend the multipliers to 10-10-25-25-40 or some other scale designed to flatten out the curve and provide a larger federal share in the initial start-up years. The recommendation on the "excess costs" problem was to amend the law and accept as "excess costs" the general education costs associated with special education personnel and programs already in place at the state level. No clear recommendations regarding the $7,500 minimum provision emerged from the conferences—only the generalized complaint that it was too high a figure for many LEAs to reach. Four recommendations regarding administrative costs were advanced: (1) that BEH review the administrative cost provisions within one or two years so that their workability can be assessed; (2) that individual LEAs be allowed to retain 5% of their pass-through funds for administrative purposes; (3) that the administrative cost provisions be brought into conformity with the General Education Practices Act; and (4) that the ceiling be raised to 7.5% or $300,000. With regard to the problem of commingling and supplanting, conference participants recommended that common regulatory procedures and provisions be instituted for P.L. 94-142, Title I, and P.L. 89-313 funds—all of which serve essentially the same programming ventures at the local level.

The third of four particularly troublesome issues was the provision for an *individualized education program*. A consistent response from the states was that the proposed regulations were too specific, that they went far beyond what the law required, and that states were much better able to handle the IEP requirements as set forth in the law than the "overregulation" proposed in Section 121a.225. The one specific recommendation that emerged from the conferences was to amend the proposed regulations to require SEAs to provide a census of state-qualified personnel for writing IEPs and a timetable for eliminating deficiencies at the LEA level.

The fourth issue of concern was *due process and procedural safeguards*. Conference participants pointed out that many states already have their own due process procedures which either parallel or can be readily brought into conformity with the requirements of P.L. 94-142. It was recommended that if a state already had its own procedures, they

should be allowed to stand as long as the intent of P.L. 94-142 is paralleled—even if every jot and tittle of the law is not replicated.

The remaining issues of concern identified in the regional conferences also received attention in the state caucuses. Part II of the report summarizes the discussion centering around each of these issues and any recommendations advanced. These issues are: *private schools, general compliance, timetables for implementation, the "unable or unwilling LEA," related services, screening—identification—evaluation, practice, comparability, child count, personnel development, learning disabilities regulations, the advisory panel, destruction of records, third party carriers,* and *evaluation by the Commissioner of Education.* Readers interested in these issues—as well as in further explication of the four particularly troublesome issues—are urged to read Part II in full.

Appendix—A Directory of Resources

Although not a part of its original inquiry, the Consortium quickly became aware that there were a large number of useful resources dealing with issues raised by law, but which had not been brought together in one place. The Appendix, *which is also available as a separate document,* is a beginning effort at a resource directory on the major issues raised by P.L. 94-142. The directory is organized into nine areas: (1) *The Law;* (2) *Assessment, Placement, Least Restrictive Environment;* (3) *Special Education Financing;* (4) *Individualized Education Programs;* (5) *Parent Issues;* (6) *Personnel Development;* (7) *Planning for the Education of the Handicapped;* (8) *Public Policy and Childrens' Rights;* and (9) *Testing.*

I

Setting The Context

Introduction

Part I of this report covers three major topics: the historical background of legislation for the handicapped which forms a context within which P.L. 94-142 can be understood, the legislative background specific to P.L. 94-142, and the activities of the Consortium on the Education for All Handicapped Children Act of 1975, together with some implications which the Consortium may have for the education policy process. Readers already familiar with the history of special education legislation and that of P.L. 94-142 may wish to skip directly to the discussion of the Consortium's work beginning on page 14.

Those interested solely in the states' feedback on various aspects of P.L. 94-142 are invited to turn to Part II, "The View From the States," beginning on page 21. Part II is a summary of the concerns that emerged in the meetings of the Consortium together with recommendations for alleviating those concerns.

Historical Perspective

From the vantage point of "A History of Special Education" as it might be written in the year 2000, November 29, 1975 will be reckoned as worthy of a chapter all its own. On that day the Education for All Handicapped Children Act became Public Law 94-142, culminating more than a century and a half of advocacy and effort.

"A free appropriate public education for all handicapped children" is mandated by the Act. A national commitment of this scope and magnitude did not come into being over night. The initial $315 million appropriation which backs P.L. 94-142 (a sum which has the potential of reaching $3.2 billion by 1982) stands in stark contrast with the $25,000 appropriated by the Connecticut legislature in 1817 to finance an "asylum" for the deaf under the guidance of the Rev. Thomas Gallaudet.

The due process guarantees set forth in P.L. 94-142 (and in its immediate predecessor, P.L. 93-380) have a long history as well. They represent an about face from the *Ward v. Flood* decision of 1874, when the principal of a public school was accorded the right to refuse admission to any child deemed to have "insufficient education" to enter the lowest grade of his school.

P.L. 94-142 caps the separate and diverse commitments of state and federal governments to the handicapped with an unprecedented concern for all handicapped children, not as a matter of charity but of public policy. The history of special education legislation is a tale of gathering momentum marked by such milestones as:

- P.L. 19-8 (1823) provided a federal land grant to an "asylum" for the deaf in Kentucky;
- P.L. 45-186 authorized $10,000 to the American Printing House for the Blind to produce Braille materials (1879);
- P.L. 66-236 extended vocational rehabilitation benefits from World War I veterans to civilians in 1920;
- P.L. 80-617, passed in 1948, amended the Civil Service Act to remove discrimination in hiring the physically handicapped;

- P.L. 83-531, the Cooperative Research Act of 1954, provided an initial $675,000 for education research for mentally retarded children;

- P.L. 88-164, the Mental Retardation Facilities and Mental Health Construction Centers Act of 1963 amended earlier legislation to include the training of personnel working with all disabilities;

- P.L. 89-313, passed in 1965, provided support for handicapped children in state administered programs, hospitals and institutions;

- P.L. 90-480, passed in 1968, called for the elimination of architectural barriers to the physically handicapped;

- P.L. 90-538, the Handicapped Children's Early Assistance Act of 1968, established experimental demonstration centers for the educationally handicapped;

- P.L. 91-230, the Education of the Handicapped Act, was written into the Elementary and Secondary Education Act of 1965;

- P.L. 92-424, the Economic Opportunity Act Amendments of 1972, mandated that 10 percent of the enrollment opportunities in Head Start programs be set aside for handicapped children;

- P.L. 93-380, the Education Amendments of 1974, guaranteed due process procedures in placement, assessment and testing of handicapped children.

The legislative history of the handicapped cited briefly above has some important characteristics upon which P.L. 94-142 focuses. In the first instance, we can detect a movement toward more comprehensiveness. A significant feature of P.L. 94-142 is that it does not address itself to particular handicapping conditions which are to be ameliorated by applying the poultice of dollars. The Act addresses the needs of children across handicapping conditions.

Our hypothetical history book might also take note of the confluence of some other, equally important, legislative forces. In P.L. 94-142 three legislative streams have joined. The first is the one we have already been discussing, which brought to fruition the efforts and dreams of pioneers such as Thomas Gallaudet, Alexander Graham Bell, Dorothea Dix,

and Samuel Gridley Howe. They sought to bring handicapped children out of the nation's closet and into its schools.

The second stream runs a much shorter course, but its current is no less powerful. It is the inclusion of handicapped children in the general education provisions of the federal government. In 1958 the National Defense Education act marked a recognition of federal interest in improving the nation's schools and colleges. In 1965 the Elementary and Secondary Education Act (ESEA) became law. Both these acts provided assistance in the education of the handicapped, as did the ESEA Amendments of 1966, which established the Bureau of Education for the Handicapped (BEH) within the U.S. Office of Education. In addition, the 1966 legislation provided funds for states to expand, either directly or through local education agencies, programs or projects designed to meet the educational and related needs of handicapped children. The 1967 Amendments to ESEA established Regional Resource Centers to provide diagnostic testing and assessment to determine the special educational needs of handicapped children. And, as noted, the Handicapped Children's Early Assistance Act of 1968 established experimental preschool programs for the handicapped.

While the first two legislative streams carried handicapped children first into the public sector and then gradually into the nation's general education budget, the third stream may prove the most powerful of all: education of the handicapped as a matter of civil right. In April of 1977, Health, Education and Welfare Secretary Joseph Califano signed the regulations governing the implementation of Section 504 of the Rehabilitation n Act of 1973, which provides that:

> ". . . no otherwise qualified handicapped individual in the United States . . . shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal assistance."

Thus, public policy issues regarding handicapped children have been joined at the constitutional level, as well as on the educational and political levels. While not a rights bill in and of itself, P.L. 94-142 reflects the civil rights concerns of Section 504 in that both state and local education agencies must comply with P.L. 94-142 or jeopardize the continued flow of federal educational dollars. Equally to the point, P.L. 94-142 builds on the Education Amendments of 1974 (P.L. 93-380) which significantly increased the level of federal aid for the handicapped, and directed those states which had not already done so to move toward guaranteeing due

process rights for handicapped children and their parents, according to a definite timetable.

P.L. 94-142 thus represents, from the standpoint of future historians, both a culmination and a fresh departure. It caps a century and a half of attention to the needs of handicapped children. More significantly, because under its authority federal funds are permanently authorized, it assures the continued presence of handicapped children as part of the national education scene.

Background Specific to P.L. 94-142

In 1971, P.L. 91-230 repealed Title VI of the Elementary and Secondary Education Act, replacing it with the Education of the Handicapped Act (EHA). P.L. 94-142 is an amendment to Part B of that law, which authorizes grants to the states to assist them in initiating, expanding, and improving programs for the education of handicapped children.

The Mathias Amendment of 1974 authorized $660 million to be made available to the states under Part B to initiate, expand, and improve special education programs. In addition, along with amendments offered by Senator Stafford, it established certain due process procedures, assurances of confidentiality, and a timetable for full service delivery.

The Education for All Handicapped Children Act was introduced by Senator Harrison Williams into the 93rd Congress on January 4, 1973 as S.6, and re-introduced in the 94th Congress by Senators Williams, Randolph, and others on January 15, 1975. It was intended to amend Part B and insure the expansion of the provisions of both P.L. 91-230 and P.L. 93-380. On June 18, 1975 S.6 passed the Senate; on July 21, 1975 its companion measure, HR. 7217, passed the house, under the leadership of Representatives John Brademas and Albert Quie. These measures received overwhelming majorities in both houses (Senate 87-7, House 407-7). The Senate/House conference reported out the Education for All Handicapped Children Act on November 14, 1975. On November 29, 1975, President Ford signed the bill into law as P.L. 94-142, but not without serious misgivings. Although the President's main objections were budgetary, he had others, many of which presaged difficulties which have been central to the concerns of The Consortium. He stated:

> "I have approved S.6, the Education for All Handicapped children Act of 1975."

> Unfortunately, this bill promises more than the Federal government can deliver and its good intentions could be thwarted by the many unwise provisions it contains. Everyone can agree with the objective stated in the title of the bill—educating all handicapped children in our nation. The key question is whether the bill will really accomplish that objective . . .
>
> There are other features in the bill which I believe to be objectionable, and which should be changed. It contains a vast array of detailed, complex and costly administrative requirements which would unnecessarily assert Federal control over traditional State and local government functions. It establishes complex requirements under which tax dollars would be used to support administrative paperwork and not educational programs. Unfortunately, these requirements will remain in effect even though the Congress appropriates far less than the amounts contemplated in S.6."

Although S.6 had been before the Congress for nearly two years, the ink on P.L. 94-142 was scarcely dry before outcries could be heard from some state and local education agencies. There was fully as much outrage over the provisions that had been enacted as there had been impassioned advocacy before passage. It was not uncommon to hear such statements as:

- "I agree with the intent, but . . . ."
- "it's unconsititutional."
- "it infringes on states rights. Education should be left to the states where it belongs."
- "it's just one more instance of the federal government trading the nickel they're willing to give you in return for the right to control the 95¢ you have to spend to get the nickel."
- "it's just more paperwork. We won't take the money."
- "the tie-in with Section 504 is a Catch-22."

Anticipating difficulties and the need for extensive planning, Congress mandated that full service delivery to children ages 3-18 would not

take effect until 1978; the date certain for children ages 3-21 was set for 1980. There was still time to gear up state efforts for compliance, to establish and to adjust existing state level mandates to the provisions of PL 94-142 so that both state and federal oxen could be harnessed to the same yoke.

In addition, a further step was required. The regulations governing the implementation of the law had to be issued by the responsible executive agency, the Bureau of Education for the Handicapped. To carry out its responsibilities under the new law, BEH undertook a variety of public information activities designed to achieve three purposes:

1. to assist state and local education agencies toward compliance by disseminating information about the law,

2. to provide and opportunity for individuals and groups to voice their concerns about implementation at state and local levels, and

3. to write regulations that would be reasonable, adequate and consistent with the intent of P.L. 94-142 and with existing state laws.

In January, 1976, the Office of Education contracted with the Council for Exceptional Children to develop three slide-tape-presentations for use in describing the significance and implications of P.L. 94-142. Five hundred copies of this media package were distributed to state education agencies, parent organizations, and advocacy groups. In addition, over 1000 letters were sent, together with copies of the law and the Congressional Conference Report, to consumer/advocate agencies.

From March through August of 1976, BEH conducted or participated in approximately twenty public meetings about the law on both a geographic and special interest basis, attended by approximately 2200 people.

A series of public meetings were held for college and university personnel whose institutions receive training grants in special education, and BEH staff served as featured speakers at a number of national conferences conducted by professional associations, such as the Council for Exceptional Children and the American Psychological Association. In

early June of 1976, a national advisory group of approximately 170 people, comprised of parents, advocates, handicapped persons, representatives of teacher organizations, and administrators of state and local programs and other professionals were gathered to write concept papers on major topics in the law. These papers served as the basis for the draft regulations, issued on December 30, 1976.

Public regional hearings were held in February, 1977 in Washington, San Francisco, Denver, Atlanta, Chicago, and Boston for purposes of receiving comment on the proposed regulations.

The Institute for Educational Leadership convened a "Conference on Policy Issues in the Education of Handicapped Children" on Febru-ary 5-6, 1976, which brought together leaders in the field of special education, Congressional staff, state education agency personnel, advocate organizations, and BEH staff. The conference focused on three major policy issues: (1) identification of the handicapped, (2) the individualized education program, and (3) funding full services for the handicapped.

The Consortium

In May of 1976, Samuel Halperin and James Browne of the Institute for Educational Leadership (IEL) proposed a series of four conferences to be held under the auspices of a Consortium comprised of IEL, the National Conference of State Legislatures (NCSL), the National Association of State Boards of Education (NASBE), and the National Governors' Conference (NGC). The Consortium on the Education for All Handicapped Children Act had two basic objectives from the outset: First, to inform state level executive, legislative, and lay political leadership of the objectives and requirements of P.L. 94-142, and second, to identify and discuss the specifics of several policy issues associated with the implementation of the law at state and local levels.

BEH funded IEL's proposal for what became "Consortium I." In pursuit of its goals four regional meetings were conducted during July of 1976 in Tampa (for Florida and Alabama), Durham, N.H. (for Maine and Vermont), Bloomington, Minnesota (for Iowa and Minnesota) and San Diego (for California and Texas). As the final report* of this series

* The report of these "Consortium I" conferences written by Carl Dolce, was issued by IEL in January, 1977, entitled "The Education for All Handicapped Children Act, P.L. 94-142: A Summary of Four Regional Conferences."

of meetings points out, there were major policy questions being asked at the state level. Among these were: the appropriate federal role in education; the supervision of service delivery by state education agencies (SEAs); the relationship of SEAs and local education agencies (LEAs) with private schools; a host of funding issues ranging from the non-supplanting provisions of the law to the impact on state equalization formulae; and changing SEA/LEA relationships brought about by the law. In large measure, these issues also continued to be a focus for discussion during the second round of regional meetings (Consortium II).

Following the publication of the draft regulations for P.L. 94-142 on December 30, 1976, these regulations and the law itself formed the basic agenda for an expanded round of nine regional conferences, designed to "go national" with the same kind of forum as Consortium I had been. At this time the Education Commission of the States joined the four original members of the Consortium and helped assure even more broadly based participation in the 1977 regional meetings. Consortium II launched a nationwide itinerary:

Place	Dates	States Represented
Kansas City	Jan. 27-28	Kansas, Missouri, Nebraska, North Dakota, South Dakota, Oklahoma
Nashville	Feb. 3-4	Kentucky, North Carolina, Tennessee, West Virginia
Atlanta	Feb. 10-11	Arkansas, Georgia, Louisiana, Mississippi, South Carolina
Salt Lake City	Feb. 24-25	Idaho, Montana, Oregon, Utah, Washington
Indianapolis	Mar. 10-11	Illinois, Indiana, Ohio
Chicago	Mar. 17-18	Iowa, Michigan, Minnesota, Wisconsin
Boston	Mar. 24-25	Connecticut, Massachusetts, Maine, New Hampshire, Rhode Island
Denver	Mar. 31-Apr. 1	Arizona, Colorado, Nevada, New Mexico, Wyoming
Annapolis	April. 10-11	District of Columbia, Delaware, Maryland, New Jersey, New York, Pennsylvania, Puerto Rico, Virginia

These two series of Consortium meetings brought together representatives from every state except Alaska and Hawaii, and included the District of Columbia and Puerto Rico. There were nearly two hundred participants overall.

Because of the unique composition of the Consortium, the regional conferences were able to bring together a diverse, but strategically important "caucus" from each state. These groups included representatives and senators from state legislatures, members of state boards of education, governors' aides (usually those whose duties encompassed education matters), and the chief state school officer or his designee, usually including the special education administrators from state education agencies (invited by BEH in cooperation with the Council of Chief State School Officers).

While each of the nine meetings had its distinctive flavor, the basic format remained constant. Following initial presentations by Ms. Maurine Ballard (Kukic) and Dr. Daniel Ringelheim of BEH, which set a general context for understanding the Bureau's implementation concerns and some of the salient features of P.L. 94-142, state caucuses were formed. Each caucus was asked, in its first session, to identify the issues in the law most pertinent to their state and to discuss them according to two organizing criteria:

1. What barriers to implementation exist in state law?

2. What barriers to implementation reside in regulations, practices, or interdepartmental coordination?

Following the initial state caucuses a general session was held in order to share results. The Consortium staff then met to group the issues raised into three general areas:

1. *Statutory issues* which related to provisions of the law itself or which needed to be addressed by state statutory change,

2. *Regulatory issues* which arose from the proposed regulations on P.L. 94-142 or which required less than statutory action at the state level, and

3. *Administrative issues* which could be clarified by additional information or interpretation of the law and the regulations by Dr. Ringelheim.

The second meeting of the state caucus was then devoted to the drawing up of recommendations by the states to themselves, or to the Congress (statutory), or to BEH (regulatory). Two questions were used to help facilitate this process:

1. What legislative or regulatory changes at state level do you recommend in order to facilitate implementation?

2. What legislative or regulatory changes to you recommend at the federal level in order to facilitate implementation?

An issue-by-issue summary of the results and recommendations of the state caucuses at the nine Consortium II conferences comprises Part II of this report.

Implications of the Consortium for the Policy Process

The Consortium has been an interesting and productive experiment in the education policy process. There are four basic reasons undergirding such an assessment.

Unique Composition. Nothing quite like this Consortium has been previously attempted in the educational arena. While these meetings may not have been the first time a policy-conscious group has been brought together to respond to draft regulations emanating from USOE, the composition of the caucuses invited from each state reflected a spectrum of policymakers and implementers that was unique. State legislators, state school board members, governors' representatives, and SEA administrators are most directly responsible for translating the mandate of P.L. 94-142 into actual services for handicapped children. It is one thing to conduct a symposium to debate the pros and cons of P.L. 94-142 as an abstract exercise. It is something quite different to bring together policymakers who have divergent political and administrative interests to work on particular issues of the barriers to implementation.

It is an unfortunate feature of our government that the interplay of various branches which have policy responsibilities rarely occurs. Often the contact which does occur takes place in a quasi-adversarial context, as for example, when department of education staff are required to justify budgets to legislators.

The shared concern within the Consortium meetings about the implementation of P.L. 94-142, however, provided the occasion for a truly cooperative venture. Those who came were there with important questions. But they were also there because each participant, whether legislator, board member, governor's aide, or education agency staff had a stake in making something happen in their home state. The face-to-face interaction among policymakers and practitioners proved to be among the most productive features of the Consortium. A frequent comment, summed up by one legislator, was: "This was the first time I ever had a chance to hear the kinds of practical problems that the people in our SEA face. This meeting helped me clarify both the potential and the impact of what we do in the legislature."

Atmosphere. Ambience or atmosphere turned out to be important to the functioning of the Consortium. All the meetings were conducted away from the press of normal business. The environment was low-key and low-pressure. The Consortium's provision of non-adversarial, neutral "turf" and the presence of Consortium staff members as facilitators in the state caucuses helped to ease the interactions between persons holding various policy perspectives and to keep the caucuses task-oriented. Honest misgivings and frustrations could be ventilated as an aid, and not as a barrier, to productivity. The small group settings for the caucuses also helped to engender trust and openness.

The policy process tends to become a high pressure affair because three very important stakes are at issue: power, money, and what happens to people's lives as a result of the decisions that are made. The focus of the Consortium meetings, however, was not to develop a final state level policy on P.L. 94-142, but to explore policy implications regarding its implementation and to provide useful feedback to Washington. Thus the low-pressure environment tended to facilitate exploration of alternatives rather than the clash of wills and interests. As one state director of special education commented: "This is the first time I ever talked to any of these legislators without a witness table between us. I think we now understand one another better."

Cross-Fertilizaiton Among the States. In both the question and answer sessions with Dr. Ringelheim and the caucus feedback sessions participants had an opportunity to hear about the concerns of other states in their section of the country. For some, the opportunity to collaborate on implementation strategies proved important. For others, it was comforting to find out that they were not alone in their concerns

about P.L. 94-142. For many, it was helpful to learn that specific actions being taken elsewhere could be replicated or modified in their own states. As one governor's aide remarked: "I always thought that those people in _____ had it pretty much together in terms of special ed. I came here to learn something from them, but the arrangement we have back home may wind up helping them out."

Contribution to Strengthening Federalism in Education. Many Americans now view with alarm an apparent movement away from a political system characterized by powers dispersed and balanced among the national government, the states, and the localities toward a system characterized by an increasing centralization of powers in Washington. In some minds, this situation has provoked a crisis marked by weakened roles for state and local governments, strengthened roles for federal bureaucracies and the judiciary, and a marked increase in "governmental positivism". Irrespective of whether one views the current situation as a crisis, an issue, or only a recurring problem, most would agree that it is time for an infusion of new thinking about the federal principle and for renewed attempts to strengthen that principle in practice.

This Consortium, in its own small way, is a self-conscious attempt to do just that. In the first instance, the Consortium strengthened the connection between "the feds" and state and local governmental leaders by bringing together those responsible for implementing P.L. 94-142, at all levels of government. Far from being a series of confrontations, the Consortium meetings produced honest give and take among the participants. There was often some tincture of hostility at the outset, but once an initial hearing of grievances was afforded, the pattern of the meetings clearly became one of a search for good will bases of cooperation.

Secondly, the presence of representatives from BEH who were clearly there to learn and not to deliver pronouncements on regulations previously carved in stone, had a disarming and ameliorating effect. State educational and political leaders saw "the feds" as human beings with concerns as deep as their own, problems just as complex and enduring as their own, and as people who need state help to assure that something constructive is done for handicapped children. The salutary effect of this milieu served to create a spirit of equal partnership in the federal system.

The third aspect of the Consortium's contribution to a revitalization of the federal principle is the fact that participants believed that their input, suggestions, complaints, and recommendations would actually be

reflected in the final draft of the regulations for P.L. 94-142. (In addition to the commentary emerging from the thirteen regional meetings, BEH received some 1700 comments on the draft regulations.) The participants believed that they were not merely being consulted but given a genuine opportunity to shape policy.

In short, the Consortium proved to be what BEH and its planners hoped: a good communication system for reciprocal federal-state issues related to P.L. 94-142. What is most significant is that, for perhaps the first time in the Office of Education's efforts to implement a major new program, federal officials decided that state political leaders had something constructive to say, and that they needed to be brought into closer contact with the regulation-making process which would have such a far-reaching effect on the children in their respective states. The overall message of the Consortium seems to be that effective implementation of law benefits from several new forms of connection and interchange between federal and state levels of government. That awareness, as it expands, can serve as the basis for a revitalized federalism. In the words of one state legislator: "The Feds ought to have something like this Consortium meeting every time they pass a law or issue new regulations."

II

The View From the States

The Purposes of P.L. 94-142

P.L. 94-142 is an ambitious piece of legislation. It states some far-reaching goals:

(1) "to assure that *all* handicapped children have available to them, within the timeliness specified in Section 612(2)(B), a *free appropriate public education* which emphasizes special education and related services designed to meet their unique needs."*

(2) "to assure that the rights of handicapped children and their parents or guardian are protected,"

* Emphasis added. Section 612(2)B) stipulates that services be delivered for children ages 3-18 by September 1, 1978 and to children ages 3-21 by September 1, 1980, except where state law, practice, or a court order mandate otherwise with respect to children ages 3-5 and 18-21 inclusive.

(3) "to assist states and localities to provide for the education of all handicapped children,"

(4) "and to assess and assure the effectiveness of efforts to educate handicapped children."

The burden for assuring the provision of educational services to handicapped children, as mandated by the law, is placed squarely on the shoulders of the states. It is the states who will be required to come up with the plans, personnel, and procedures for seeing that the goals of P.L. 94-142 are met. Not surprisingly, the law creates difficulties for the states, both in its general and specific provisions. What follows is a summary of these concerns as they emerged in the meetings of the Consortium, together with recommendations for alleviating those concerns. Appropriate sections of the statute and the proposed regulations are cited for reference.

The State Education Agency's Supervisory Role

Statutory Reference: 612(6)

Regulations Reference: 121a.34

> "(6) The State educational agency shall be responsible for assuring that all the requirements of this part are carried out and that all educational programs for handicapped children within the State, including all such programs administered by any other State or local agency, will be under the general supervision of the persons responsible for educational programs for handicapped children in the State educational agency and shall meet the standards of the State educational agency." [612(6)]

The intent of the law is clear. To have a single state agency carry responsibility for assuring the delivery of educational services to all handicapped children is a way to assure accountability. The most likely candidate is the SEA, as it has traditionally had this responsibility for non-handicapped children. But in some cases this supervisory function assigned to the SEA cuts across departmental lines within states and

forces policymakers to deal with something they would perhaps rather not deal with: a re-arrangement of administrative procedures.

Each of the conferences offered different manifestations of some aspect of the general problem raised by this provision, owing to different administrative, legal, and in some cases constitutional structures of the various states. Over the life of the Consortium, the staff began to refer to this issue as the "How big a stick does BEH expect the SEAs to carry?" question, that is, how extensive and strict a supervisory/compliance role will the federal government demand?

Like any complex problem, there are several ways this issue can be parsed to get at its constituent parts:

The Constitutional Issue: From the opening minutes of the conference in Kansas City, the (state level) constitutionality of the SEA supervisory role became a constant refrain. Many states argued that the requirement of P.L. 94-142 that the SEA monitor and supervise the delivery of educational services to handicapped children, who are under the supervision of other state departments (e.g. Human Resources, Welfare, Institutions, Corrections, etc.), was impossible, because of statutory or constitutional limitation. The argument ran that these various departments had their own parallel constitutional locus and authorities. To even intimate that one agency be made subordinate to another in any fashion was to ask these states to violate their own constitutions. The most extreme example of this problem appeared in the Salt Lake City Meeting, where one state spoke of the extreme difficulty of implementing this provision of P.L. 94-142 because the SEA came under the supervision of an elected, not an appointed, Chief State School officer, and the delivery of services to children under the auspices of other state departments fell to the responsibility of the governor. As one governor's representative put it: "If you think my boss is going to allow _____ to tell him what to do about handicapped children in the Department of Human Resources, you're crazy!" Other states in which there is an elected chief state school officer expressed the same problem, if somewhat less vehemently.

Political and "Turf" Issues: Many Consortium participants pointed out that P.L. 94-142 may work a political hardship in many states because it does not seem to take into account the kinds of administrative and political arrangements that enable a state government to function smoothly. The requirements of the law, in effect, imply a modification of some structures and responsibilities, and hence power, at the state level.

The politics of the problem become clearer when the suggested remedy for this problem is examined. In many states it is not uncommon for different state agencies with overlapping jurisdictions to work out, both formally and informally, administrative measures which delineate authority, responsibility and accountability for the performance of the functions of government. Why not, asked several participants, apply the same principle to the role of the SEA with regard to the monitoring of activities carried out under P.L. 94-142? It seems a simple enough answer to a complicated question.

Regrettably, the problem is more complicated than the solution admits, for P.L. 94-142 injects a third party into the environment, the federal government. It also has a stake in compliance and the enforcement of the law. P.L. 94-142 and its implementation is not merely an intrastate affair; the validation of that implementation rests with the U.S. Office of Education and the Bureau of Education for the Handicapped. Hence, when the suggested solution has been offered to SEAs, the response has often been: "Yes, we do enter into such agreements in our state, and we could do so for purposes of implementing P.L. 94-142. The problem is that we of the SEA have no power of sanction when those with whom we enter into agreements don't live up to them. Yet we are the ones who are held responsible when it comes to compliance. Just how big a stick does BEH expect our SEA to carry?"

The Native American Issue: Because P.L. 94-142 mandates a free appropriate public education for all handicapped children, that mandate includes Native Americans. Section 611(f)(1) of the law and Sections 212a.125-29 of the draft regulations deal with "Applications from the Secretary of the Interior," whose responsibility it is to deliver educational services through the Bureau of Indian Affairs to Native American children who live on reservations.

State and local education agencies also deliver educational services to Native American children, both on and off reservations, sometimes using local funds, state funds, USOE or BIA funds. Because of the special status of Native American affairs, the delivery of services to handicapped children among this population often involves an administrative jungle of overlapping jurisdictions, reporting requirements, funding provisions, and possibly administrative infighting. In Kansas City, Salt Lake City, and Denver, where states containing reservations were prominently represented, many questions regarding the responsibilities of SEAs with regard to Native Americans were raised.

In general, it is the position of BEH that the BIA is the "SEA" for the Native American population. Nevertheless, SEAs will carry responsibility for those services delivered under their banner when they enter into arrangmeents with the BIA. What is most needed are some guidelines for the cooperative arrangements that must be entered into between SEAs and the BIA if the needs of these children are to be met.

Changing SEA/LEA Relationships: There are several consequences of P.L. 94-142 which will mean a change in the relationship between SEAs and LEAs.

1. One problem which arises is that P.L. 94-142 may place SEAs in a different role function with regard to its LEAs. Customarily, in a number of states, the SEA has traditionally fulfilled a "technical assistance" function with regard to local education agencies and has not gone much beyond that. P.L. 94-142, however, requires that SEAs monitor compliance with the law; instead of a friend, the SEA now becomes a policeman. A kind of administrative schizophrenia results, in which at one moment the SEA wears the helper hat and the next minute dons the judge's robe. This, many participants pointed out, inhibits trust.

2. The law requires that local plans be approved by the state for purposes of the state's annual program plan; this is an indication of greater direct state involvement in schooling, a function that has historically been carried out at the local level (albeit under the authority of the state).

3. There is at least an implicit requirement in the law that the LEA's effectiveness be monitored by the SEA. Thus, if several LEAs were found to be in non-compliance, the presumption is that funds could be withheld from the state. But how many non-compliant LEAs would it take to cause funds to be withheld from a state? And how is "non-compliance" defined and measured?

4. There is a mandate in the law that requires the SEA to deliver services *directly* where no LEA is present, or in the case of the "unwilling and/or unable" LEA. The provision of direct services is a new function for many SEAs to assume. As was brought out in the Denver and Annapolis conferences, there are statutes in some states which actually prohibit them from delivering services directly.

5. The requirement of a $7500 minimum entitlement for federal

grants under P.L. 94-142 means that a significant number of the LEAs in the country will not be able to generate an entitlement. This is clearly the case in a large number of relatively small school districts in sparsely populated western states. Thus, it appears that the state may have to assume the responsibility for direct provision of educational services to handicapped children.

Hence, P.L. 94-142 may deeply affect the relationship between the SEAs and their LEAs. It will require opening up new avenues of cooperation and trust. It will realign responsibilities and power. It will mean that the SEA will play a larger role than ever before in what goes on at the local level with respect to educational services to handicapped children. What new precedents it may set for the state vis-a-vis the local districts remains to be seen.

The various participants had several recommendations regarding the functions the federal government was asking them to perform.

It was recommended, as in the case of the general compliance issue, that BEH exercise a good deal of flexibility in assessing the degree of success the SEA was having in "supervising" the delivery of services to handicapped children at the local level. To the extent that compliance is contingent upon inter-agency cooperation at the state government level, it was recommended that BEH give the states a chance to "get their act together," and that a "grace period" be instituted in order to allow time for the states to get their respective houses in order.

The second general recommendation which emerged from the nine conferences was that P.L. 94-142 be amended to allow SEAs to exercise their supervisory function in accordance with state, not federal, law. While such a recommendation may seem to undercut one of the key provisions of the law, the participants at the Atlanta conference, where it first originated, felt that such an amendment would considerably strengthen the hand of the states in implementing the full intent of the law, whereas administrative rearguard actions in the form of inter-agency squabbles would considerably hamper implementation.

A final recommendation was that P.L. 94-142 be amended to substitute the word "coordinate" for the words "supervise" or "monitor." This, it was felt, would considerably ameliorate political and "turf" problems. Participants in the Salt Lake City conference agreed that such a change would get around the seeming requirement of the law that the SEAs push beyond limits laid down for them in state law.

Private Schools

Statutory Reference: 613(a)(4)(A)(B); 613(a)(6)

Regulations Reference: Subpart D, 121a.300-23

If the question of the SEA's supervisory role was the "How Big a Stick?" question, then surely the delivery of services to children in private settings can be dubbed the "How Fat a Wallet?" question. It was brought up at every conference from Kansas City to Annapolis.

The law requires that states, "to the extent consistent with the number and location of handicapped children in the state who are enrolled in private elementary and secondary schools, make provision for the participation of such children in the assistance provided for under P.L. 94-142," and that special education and related services be provided "at no cost to parents or guardian if such children are placed in or referred to such schools" by the SEA or LEA. The law also mandates that such private school placements have to be in conformity to SEA and LEA standards.

This is clearly one of the most controversial provisions of the law, largely because of the room and board issue. The regulations surrounding Section 504 of the Rehabilitation Act of 1973 define room and board as "educational costs" for handicapped children, and states too numerous to mention may be having visions of rapidly draining coffers now that these regulations have been signed. In the first instance, then, the private school issue is a money issue for the SEAs and LEAs.

Secondly, there were numerous instances cited of conflict with state statutes, regulations, and practices which require that parents contribute, at varying levels, to the cost of private placements for their handicapped children. One state's formula provides that the state cannot pay more for room and board at a private school than the transportation costs to a residential facility. The New England states represented at the Boston conference were acutely conscious of the private school issue since there are so many non-public schools in that section of the country. They feared the pressure of parents for services for their handicapped children in private settings would drive up the costs of direct services, related services, and the administration of service delivery.

In general, there are four types of situations where the private school issue and the question of SEA or LEA responsibility emerge:

(1) A parent places a child in a private school and desires that the child remain in that setting, but seeks services for the child under P.L. 94-142. The LEA is obliged to provide only the services required, in accordance with the child's individualized education program. If the IEP calls for the delivery of the service in a residential setting, then room and board become an educational cost according to Section 504. If the IEP does not call for the delivery of services in the residential setting, then the LEA is under no obligation to provide room and board unless the parent contests the IEP. At this point, the matter goes under due process proceedings.

(2) A child placed in private school is withdrawn from the school nd the parent places the child in the public schools. The school district is responsible for all aspects of the child's education.

(3) The LEA, because it cannot provide the services needed as called for in the IEP, places the child in a private setting. Room and board are then considered educational costs and the LEA must pay.

(4) In the case of parochial school children, the general rule of thumb is that services may be delivered to children but not funds to schools, i.e. parochial school children may receive services offered under the auspices of the LEA, but to avoid church/state entaglements, these services must to be delivered on LEA premises by LEA personnel.

Thus, as these four types of situations indicate, the states, in all nine conferences, consistently called for more guidance from BEH as to state accountability for free residential care in private settings, particularly as applied to medical vs. educational services. Closer definitions as to which is which were requested. SEA representatives also made the case that the residential care of wards of the state in private settings (and in some institutional settings) should not be chargeable expenses to SEA and LEA budgets by virtue of P.L. 94-142. These children, it was argued, should continue to receive care and services under existing funding mechanisms.

Funding

Five basic funding issues were discussed, with varying degrees of intensity, throughout the nine conferences: start up costs, excess costs, the $7500 minimum, administrative costs, and the comingling and supplanting issues.

Start up costs: The basic argument of all the participants who expressed themselves on this issue was that the funding provisions of P.L. 94-142 are structured backwards. In 1978 the entitlements and allocations are figured by using a 5% multiplier of the national average per pupil expenditure (PPE) times the child count of handicapped children who receive special education and related services in each state. The percentage multiplier goes up to 10% in 1979, 20% in 1980, 30% in 1981 and tops out at 40% in 1982. (Section 611(a)(1)(B)(i-v)) What this progression fails to take into account is that the highest costs of implementing the law will be incurred by the states in the earlier years. The fact that by 1982 P.L. 94-142 may become, in effect, a revenue sharing bill, is of little help to us now, the states have argued. This problem is compounded by two additional facts: (1) the low count (compared to estimates), and (2) the perennial shortfall between authorization and actual appropriations.

In view of this situation two types of recommendations were made, both involving changes in the law. One change which was sought by representatives in the Chicago conference was to raise the PPE multiplier, in this case, from 5% to 7.5% for the first year. A second suggestion was that the percentage figures for the ensuing years be "flattened out" to 10-10-25-25-40, or according to some other scale which would rise on a much more gradual curve with more start up costs being funded by the federal government.

Excess Costs:

Statutory Reference: 601(2); 614(a)(1)

Regulations Reference: 121a.82

The P.L. 94-142 funding formula is an excess cost formula. It defines "excess costs" as those which are used for special education and related services, and which are above the cost of regular education for an elementary or secondary school student in the LEA. Regular education costs are computed by first adding all educational costs for elementary

and secondary students in the LEA during the preceding year (except capital outlay and debt service). From this amount is subtracted what was received under Part B, and Titles I and VII of ESEA (1965,) as well as amounts the LEA spent from sources such as programs for handicapped children, programs for educationally deprived children, and bilingual education programs. The result is then to be divided by the average number of pupils in attendance during the preceding year. The result gives a PPE for regular education. Costs for education of a handicapped child are those in excess of this normal education cost.

What several participants pointed out in Atlanta, Salt Lake City, Kansas City, and Annapolis was that the excess cost formula in the regulations forces some states to violate their own laws requiring the equalization of spending statewide on a per pupil basis or asks states to violate state court orders intended to achieve the same equalization. Moreover, they argued, the non-supplanting provision (discussed below) penalizes those states which have their own excess cost formulas. These provisions of P.L. 94-142 together with some existing state funding procedures have the effect of keeping SEA and LEA commitments to handicapped children at the same level regardless of state funding. In short, they foster disequalization.

The recommendation coming from these states was that the federal government be willing to accept as "excess costs" the general education costs associated with special education personnel and programs already in place at the state level, as opposed to the special education costs associated with personnel and programs needed to comply with P.L. 94-142. This is in direct contravention of the provisions of the regulations and the law, and to meet the expressed desires of the states in this regard would require substantive changes in federal law.

The $7500 Minimum:

Statutory Reference: 611(c)(4)(A)(i); 611(d)

Regulations Reference: 121a.82

The law provides that no LEA may receive an entitlement unless its child count is able to generate a minimum entitlement of $7500, i.e. approximately 107 children, depending on what the national per pupil expenditure establishes as the multiplier. The current estimate is a $70 per pupil expenditure.

The basic problem experienced here, particularly in those states where there are large rural areas and sparse populations, is that it is difficult for school districts to generate entitlements. When entitlements cannot be generated by child counts within districts, the mandate of the law is not obviated. The burden shifts to the SEA to provide educational services.

The law seeks to take this difficulty into account in the provisions it makes for consolidated applications of one or more school districts in order to come up to the $7500 level. Nevertheless, there are large cost factors involved in the related services aspect of service delivery (e.g. transportation). The fear of LEAs, even under consolidated applications, is that they will be caught between the full service mandate of the law for unserved (Priority One) and underserved (Priority Two) children on the one hand, and the costs associated with consolidated applications on the other. The Consortium heard repeated statements of concern that LEAs cannot transport children over long distances and provide the appropriate educational services as well.

Moreover, in a consolidated application, the excess cost formula works a hardship in a specially created consolidated entity when differing funding formulae hold across district lines. The solution offered to this problem in the regulations 121a.82(d), that of averaging costs among participants in the new entity, can sometimes conflict when there are incompatible funding mechanisms across school districts.

One southern state indicated at the Atlanta conference that two-thirds of their LEAs would not be able to generate an entitlement under this provision. One western state indicated at Salt Lake City that it would require a consolidated application from the entire eastern third of the state to generate that amount. Similar problems are expressed from states which held meetings under the auspices of Consortium I.

No clear recommendations regarding the $7500 provision emerged from the conferences. There was, however, a generalized complaint that it was too high a figure for many LEAs to reach. The Salt Lake City conference did recommend that the provision simply be stricken from the law and there be substituted a provision which bases funding on service delivery rather than child count. BEH representatives pointed out, however, that this option seems impractical, in view of the fact that it would undercut many of the other provisions of the law which are related to the child count.

Administrative Costs:

Statutory Reference: 611(b)(2)(A)(i), (ii)

Regulations Reference: 121a.501

"Too low! Too low! Too low!" If laws could be changed by the volume of comment they produced in a particular vein, then surely there would be more funds available to the states for the administrative costs which they envision under P.L. 94-142. The law provides that of the 50% of the funding available to each SEA in FY 78 (and 25% in FY 79) 5% of those funds or $200,000, whichever is greater, may be retained by the SEA to cover administrative expenditures. But as the states were quick to point out:

(a) such administrative funds are scarcely enough to cover the cost of the child find activities necessary to locate all unserved children in the state (Priority One), let alone the administrative costs of implementing the law. It should also be noted, however, that the state may retain 50% of the funding under the law in the first funding year (25% in subsequent years) which can be used for child find, training, and other activities.

(b) the non-supplanting provisions of P.L. 94-142 make the funding of administrative procedures and program personnel maintenance highly problematic;

(c) the monitoring function of the SEA, including site visits, cannot begin to be covered;

(d) due process proceedings can eat up large amounts of administrative monies in a big hurry.

What is to be done? The Nashville conference first recommended a strategy which was echoed in later conferences: that BEH should review the administrative cost provisions within one or two years so that their workability can be assessed.

The problem with administrative costs does not exist alone at the SEA level. Since LEAs are closest to the point of service delivery and will be carrying out the implementation of P.L. 94-142, it is on them that the major administrative burden will fall. Yet, there is no provision in either the law or the regulations for a pass-through of administrative dollars to

the LEA, or for them to withhold part of their funds for administrative purposes. It was recommended at Atlanta, Salt Lake City, Indianapolis, Boston and Chicago that individual LEAs should be allowed to retain 5% of their pass through funds for administrative purposes. Further recommendations were made that the administrative cost provisions should be brought into conformity with the General Education Practices Act, and that, in general, they should be raised to 7.5% or to $300,000.

Commingling and Supplanting

Statutory Reference: 613(a)(9)(A)

Regulations Reference: 121a.46

Under this provision of the law, the states are required to provide satisfactory assurances that federal funds will not be commingled or used to supplant state and local funds in the delivery of services to handicapped children. Rather, the intent of the legislation is to supplement and increase the level of state and local funds. The non-supplant provision is waived, however at the point when states meet the "free appropriate public education" requirements for all their children; at that point P.L. 94-142 simply becomes a revenue sharing measure, at the discretion of the Commissioner of Education, who can waive the commingling and supplanting provisions.

The problem with commingling and supplanting comes at the level of the individualized education program (IEP). A given child may require the educational, therapeutic, and support services of administratively separate agencies at both state and local levels. This creates both administrative and audit difficulties, indeed, in the words of one state legislator, an "auditor's nightmare" of trying to decide when, where, and how commingling and/or supplanting is occurring.

The problem hits home with respect to the overlap of P.L. 89-313 (institutional care funds) and P.L. 94-142. Because of the long experience of many states with P.L. 89-313 dollars, they have already well-established priorities for the use of this money. But in their movement to de-institutionalize children and place them in public schools, a problem is created because "313" funds follow the child into the program. But if P.L. 94-142 funds cannot be commingled, a situation results in which a given program is penalized if it has a 94-142 and a 89-313 child in it.

The recommendation proposed by the several states concerned with this issue was that regulatory procedures and provisions be worked out regarding the P.L. 94-142, Title I, and P.L. 89-313 funds which are being used essentially for the same programming ventures at the local level.

The Individualized Education Program (IEP)

Statutory References: 602(19), 614(4); 614(a)(5)

Regulations Reference: 121a.30; 121a.225

The law and the regulations provide that every handicapped child must have an individualized education program (IEP) There was strong negative feeling about the degree of specificity called for in the draft regulations, much discussion about "overregulation," the invasion of the classroom by the federal government," and other similarly inflammatory reactions. One educator at the Salt Lake City conference called the regulations on the EIP "absolutely unacceptable.*

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* The law requires "a written statement . . . developed in any meeting by a representative of the local education agency or an intermediate educational unit who shall be qualified to provide or supervise the provision of specially designed instruction to meet the needs of the handicapped child, the teacher, the parents or guardian of such child, and, whenever appropriate, such child, which statement shall include:

From the Law	From the Proposed Regulations (Now Being Re-drafted)
A. "a statement of the present levels of educational performance of such child."	(a) ". . . including academic achievement, social adaptation, prevocational and vocational skills, psychomotor skills, and self-help skills"
B. "a statement of annual goals"	(b) ". . . which describes the educational performance to be achieved by the end of the school year under the child's [IEP]"
"including short term instructional objectives"	(c) ". . . which must be measurable intermediate steps between present levels of educational performance and the annual goals"
C. "a statement of the specific educational services to be provided to such child,"	(d) ". . . (determined without regard for the availability of those services) including a description of: (1) All special education and related services which are needed to meet the unique needs of the child, including the type of physical education program in which the child will participate, (2) Any special instructional media and materials which are needed"

Another common complaint was too much "paperwork." Participants in several conferences felt that the amount of time the classroom teacher would spend filling out IEP forms was disproportionate to the benefits the child would derive from it. As was pointed out over and over again, the IEP is an educational management tool, not an instructional guide.

Another objection raised in the Chicago meeting was with the IEP team idea. While endorsing the notion that parental involvement in the evaluation process was right and necessary, educators from these midwestern states strongly endorsed the notion that the development of the IEP was properly an educational venture which should be done by professionals only. Here, they said, parents had no business.

A rather consistent impression from the nine conferences was that educators were caught in a bind of their own making: they really *believed* in the IEP as something that should be provided for every handicapped child, yet they were caught by the nitty-gritty difficulties to which their commitment led them. In short, there was no easy way out.

Nevertheless, it was a consistent response from the states that the regulations were too specific, that they went far beyond what the law required, and that they were much better able to handle the IEP requirements as set forth in the law than the "overregulation" in Section 121a.225.

"and the extent to which such child will be able to participate in the regular educational program"

D. "The projected date for initiation and anticipated duration of such service, and appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether the instructional objectives are being achieved."

(f) "a description of the extent to which the child will participate in the regular educational program.

(e) "the date when those services will begin and the length of time the services will be given"

(g) "A justification of the type of educational placement the child will have."

(h) "A list of individuals who are responsible for determining, on at least an annual basis whether then short term instructional objectives are being achieved."

One suggestion from the Boston conference was that the regulations should be amended to require SEAs to provide a census of state-qualified personnel for writing IEPs and a timetable for eliminating deficiencies at the LEA level. Thus, SEAs and LEAs could be judged in "substantial compliance" so long as their IEP workload was consistent with the census.

Due Process and Procedural Safeguards

Statutory Reference: 612(2)(D); 612(5)(B)(C); 613(a)(B), 613(c); 613(a)(9)(B); 615(a); 615(b)(1)(A), (C), (D); 616(a); 617(c)

Regulations Reference: 121a.400-493 (Subpart E)

The application of due process procedures to the education of the handicapped has not sprung on the scene with the passage of P.L. 94-142. As was pointed out in Part I of this report, they were already present two years ago in the requirements of P.L. 93-380. As a matter of fact, the only significant change from the requirements of P.L. 93-380 which are added in P.L. 94-142 relate to the prohibition of a state or local education official from serving as a hearing officer in a due process proceeding.

Many states already have their own due process procedures which either parallel, or can be readily brought into conformity with, the requirements of P.L. 94-142. That is not always the case, however, and it was recommended more than once in the conferences of the Consortium that if a state has already developed its own procedures, as long as the intent of P.L. 94-142 is paralleled, they should be allowed to stand even if every jot and tittle of the law is not replicated.

Such discussion as did occur centered around two figures who emerge from the law: the Hearing Officer and the Surrogate Parent. In regard to the Hearing Officer, the regulations provide, as was stated above, that that officer cannot be an SEA or LEA employee who is involved in the care or education of the child, or anyone who might have a conflict of interest, i.e. basically someone whose objectivity may be questioned by virtue of his or her position.

This is obviously a wise provision in the law, and the participants in all the conferences saw it as such. Nevertheless, it does present problems to some states. In a general way, it serves to exclude those whose

knowledge of and individual child may be greatest and who may actually be in the best position to render a decision. But the testimony of such persons can be solicited in any due process proceeding.

More specifically, however, this provision in the law does conflict with the statutes of some states, as was brought out in the Denver conference. One state indicated that it has a law regarding hearing procedures which fixes the local school board as the final administrative appeal level, after which, if there is no satisfaction, civil action is the only remedy. This places the local board in the position of hearing officers, and while not technically employees of the LEA (they are, in fact, its employers), some question was raised as to the impartiality which might be rendered in such an instance.

A second matter which can be subsumed under the functioning of the hearing officer is that P.L. 94-142 make no statement about, or provision for, the protection of either hearing officers (or surrogate parents for that matter) from civil litigation arising from administrative hearings or the performance of their duties. This matter was brought forward in a majority of the conferences and is clearly a concern of the states. Most admitted, however, that a statutory remedy at the state level would be less complicated and more effective than an amendment to P.L. 94-142.

So far as surrogate parents were concerned, the chief issue rose in several of the conferences where states represented have statutes which make the superintendents of state institutions (where there are handicapped children) the legal guardians or guardians *ad litem* (for legal purposes) of the children placed in their charge by the state if there is no parent. Could these people serve as surrogate parents? The question of conflict of interest in regard to the intent of the law was immediately apparent, yet there does not seem to be a clear way around this problem. It will have to be left to the states to work out for themselves, yet from the point of view of the states in which this is a problem, it was yet another instance of the provisions of the law getting in the way of its intent.

An interesting suggestion regarding the recruitment of surrogate parents by LEAs emerged from the Chicago conference. One participant outlined a program in his state in which graduate students in special education administration were being recruited as surrogates. This procedure "kills three birds with one stone:" it fulfills an academic requirement, provides effective inservice for the degree candidates, and produces knowledgeable surrogates.

A further due process issue which had not been considered before emerged from the Boston conference, the so-called "pendency issue." The law, Section 615(e)(3), and the regulations, section 121a.413, provide that:

> "During the pendency of any proceedings conducted pursuant to this section on due process, unless the State of local educational agency and the parents or guardian otherwise agree, the child shall remain in the then current educational placement of such child . . ."

The wisdom of this provision is that it protects the child while time-consuming administrative and legal proceedings are being carried on. The problem with it is, as one participant pointed out, that it does not take into account the child whose retention "in place" during the pendency of proceedings may constitute a danger to him/herself or to other children. The recommendation of the Boston conference was that a regulation needs to be added to Section 121a.413 to cover such contingencies.

General Compliance

While there is a compliance issue at stake with regard to every provision of P.L. 94-142, the states attending the Consortium conferences were unanimous in their appeal to BEH to exercise flexibility in its assessment of compliance. It was generally felt that BEH should take into account the presence of a state mandate, state legislation, state and local programming efforts, and the progress and the history of a state's dealing with its handicapped children in assessing compliance with the specific provisions of P.L. 94-142.

Specifically, as was expressed in the Nashville conference, BEH needs to clarify more fully than it has in the regulations how a state should document its compliance with the full service mandates for unserved and underserved children. Such documentation as is required should be clearly communicated to the states by the BEH in advance of site visits to assess compliance.

Timetables for Implementation

Statutory Reference: 612)2)(B)

Reglations Reference: 121a.22; 121a.200

The law requires that the states deliver full services to all handicapped children under their responsibility by a "date certain:"

> "A free appropriate public education will be available for all handicapped children between the ages of three and eighteen within the State not later than September 1, 1978, and for all handicapped children between the ages of three and twenty-one within the State not later than September 1, 1980, except that, with respect to handicapped children aged three to five and aged eighteen to twenty-one, inclusive, the requirements of this clause shall not be applied to any State if application of such requirements would be inconsistent with State law or practice, or the order of any court, respecting public education within such age groups in the State"

The most consistent complaint heard from the states in regard to the timelines was that they conflict, in varying degrees, with already existing state mandates, statutes, regulations and state plans for the delivery of services to handicapped children. Some are using dates of 1978, 1979, 1980, etc. as benchmarks by which they are measuring their own progress in accomplishing what P.L. 94-142 asks them to do. In six of the nine conferences it was pointed out rather forcefully that more harm than good would be done by states dislocating their own timelines to try to comply with those of P.L. 94-142.

It was consistently recommended that BEH should allow those states which already have their own timetable for the delivery of services to proceed according to their own plans.

A novel suggestion came out of the Boston conference in this regard, tying the timelines to the funding mechanism of P.L. 94-142. Since the timelines for compliance work something of a hardship on some states, it was recommended that the degree of compliance be measured in correspondence with the percentage per pupil expenditure (PPE) multiplier stipulated in Section 611(a)(1)(B)(i-v) of the law. Since by 1982 the federal government will be funding P.L. 94-142 at 40% of the national PPE, full compliance at the state level involves a 2.5 factorial differential. Thus, it was recommended that the degree of full compliance required of the states should correspond to 2.5 times the percentage of the national PPE in the intervening years (1978-81)

The Unable and/or Unwilling LEA

Several states, particularly in Atlanta, Indianapolis, Boston, and Annapolis, forwarded the question as to what should be done if an LEA refuses to apply for P.L. 94-142 funds. Under the law, delivery of services to all children within a state remains a state responsibility; the law looks upon the LEA primarily as the delivery agent acting under the auspices of the SEA. But if an LEA is "unable and/or unwilling," two things will happen:

(a) there is a danger of a non-compliance judgment on the part of BEH with respect to a particular state, and

(b) the pass-through of funds to other LEAs will be ratably reduced to pick up the slack created by the unable or unwilling local district. This latter consequence means that, in effect, LEAs which are doing their job will be penalized by their sister LEAs who are not.

There is a further possible consequence. According to the preamble to the regulations for P.L. 94-142, such LEAs will be subject to the sanctions of Section 504 of the Rehabilitation Act of 1973 and stand in jeopardy of having all federal education funds cut off. (See the *Federal Register*, December 30, 1976, Part IV, pp. 56970-71).

Related Services

Statutory Reference: 602(17)

Regulations Reference: 121a.4

According to the law, "'related services' means transportation, and such developmental, corrective, and other supportive services . . . as may be required to assist a handicapped child to benefit from special education, and includes the early identification and assessment of handicapping conditions in children." "Other supportive services" specifically mentioned in the statute are: audiology, psychological services, physical and occupational therapy, recreation, medical and counseling services (except these latter are for diagnostic and evaluation services only).

The consistent response of the states to this requirement of the law, as expressed particularly in the conferences held at Kansas City, Nash-

ville, Salt Lake City, Atlanta, Denver, and Annapolis, was that the states have difficulty in judging the *extent* of related services for which they will be held responsible and accountable. In other words, how much, for how long, to whom, and on what basis?

Problems arise in individual circumstances. For example, in states which are sparsely populated, the delivery of related services would clearly indicate transportation as an educational cost. But when the distances traveled make one day trips burdensome on the children themselves, would an LEA be responsible to pay the costs of overnight stays when required? At what point does this kind of related service move into the area of a residential placement? There is potential conflict here with the IEP, where transportaton as a related service may be called for but a residential placement would violate the concept of least restrictive environment.

Many states expressed the concern that the definition of "related services" as educational costs is unfair to low budget school districts who are hard enough pressed to deliver the direct services called for by P.L. 94-142. Still others expressed the concern that "related services" includes more than is currently described or reimbursable under their own state statutes, a message forcefully delivered by two of the states which attended the Boston conference.

Screening, Identification and Evaluation

Statute Reference: 612(2)(C); 612(5)(C)

Regulations Reference: 121a.28; 121a.430-433

As was first brought out in the Atlanta conference, the requirements of P.L. 94-142 conflict with some state statutes, regulations, and current practices in this area. The standards most often called into question regard the certification of personnel who are qualified to carry out screening and identification procedures. These persons are sometimes under the jurisdiction of SEAs and sometimes not. Sometimes the qualifications for certification in one specialty are incongruent with those for another.

Moreover, there is a serious shortage of qualified people in some areas, particularly in rural states, as was brought out in the Kansas City, Salt Lake City, and Boston conferences. In one southern state the LEAs do not have independent taxing authority and thus find it difficult to

raise the revenues necessary for implementing an extensive screening procedure.

A difficulty of a philosophical nature, but with serious practical consequences, was brought out in both the Indianapolis and the Boston conferences. P.L. 94-142 calls for the collection and reporting of data about children by handicapping conditions. This is particularly distressing to those states which have moved away from "labelling" handicapped children and have developed data collection systems according to "service delivery categories" rather than handicapping conditions.

The states' consistent recommendation was that they be allowed to report their data in the form in which they collect it, and that their state plans be evaluated in terms of service delivery categories rather than categories of handicapping conditions.

Practice

Statutory Reference: 612(2)(B)

Regulations Reference: 121a.200

The issue here is joined at both ends of the age range spectrum encompassed by the law. The law provides exemptions for the delivery of services to handicapped children in such cases where such delivery is "inconsistent with State law or practice, or the order of any court, respecting public education within such age groups in the State".

But what is to be considered "practice" in terms of the delivery of services? *Mandatory* kindergarten is a clear case of it being the practice of a state to deliver services to children ages 3-5. But when kindergarten is *permissive*, "practice" becomes unclear. The regulations, in an attempt to clarify this matter, have said that states are not responsible for the delivery of services in cases where a state does not, in fact, "make public education available to a majority of non-handicapped children in the age groups" specified. This has been called the 51% provision. Unfortunately, if the Consortium meetings are a reliable guide, the states have not seen the clarity intended. The question raised at a majority of the conferences was: "At what level does the delivery of pre-school services to non-handicapped consitute a state practice which must be applied equally to handicapped children?"

At the other end of the age spectrum (18-21), questions were raised in three of the regional conferences as to the responsibility of SEAs and LEAs to provide services beyond some definitive "end of schooling" point, e.g. diploma, certificate, etc. to handicapped youth, under 21, who had completed some course of study in a high school or vocational school. Representatives from BEH answered this query in the negative, stating that a school district was not expected to provide additional education to a graduated or certificated non-handicapped child, and therefore would not be expected to do so for a handicapped child.

The upshot, however, is that the matter of "practice" in the law and the regulations needs rather closer definition and explication.

Comparability

Statuory Reference: 614(a)2)(C)

Regulations Reference: 121a.110

The law stipulates that each state applying for funds under P.L. 94-142 must provide assurances that its SEA is satisfied that the funds to be expended at the LEA level are for educational and related services which, taken as a whole, are "at least comparable to services being provided in other program areas of the LEA not funded under" P.L. 94-142.

This provision raised questions and comment in each of the conferences. In Nashville, for instance, it was pointed out that the "comparability" provision":

1. requires the state to generate a new data base because they are not accustomed to evaluating programs on this basis;

2. presents difficulties in tracking costs across programmatic and administrative lines, i.e. $1 here does not always equal $1 there;

3. is basically not well defined. States are not clear what "comparability" *is*. What is a "program area?"

4. is open to confusion with Title I. But comparability in Title I is figured according to attendance area, not program area. Nor are costs computed in the same way. In Title I, costs are tracked by

following the child; the integrated funding structure of P.L. 94-142 makes this difficult, if not impossible, in the view of many participants.

The participants in the Nashville meeting indicated that states need to know the criteria which BEH will use if they are to be able to judge whether their own program for handicapped children is "comparable" to those they offer for children who are not handicapped. It would also be useful to have criteria for states to judge if a particular program for a particular handicapping condition compared favorably or unfavorably with a similar program being offered elsewhere within the state.

In general, however, it appears that if the individualized education programs are properly prepared and executed, the question of comparability will become moot. The issue which the law presents to the states is a free appropriate public education for every handicapped child. This issue supercedes the issue of whether or not programs for handicapped children are comparable with each other. This does not mean that the comparability issue is unimportant or insignificant. It does mean that the heart of comparability lies in the IEP and not in the program.

The Indianapolis conference offered an alternative recommendation to the "program area" concept when it proposed that the comparability should be fiscal rather than by program, i.e. that states should be held accountable to spend comparable amounts on programs for handicapped and non-handicapped. This raises the question, however, of whether by spending comparable amounts the handicapped will be as effectively served, since special education programs are generically more costly than regular education programs.

Child Count

Statutory Reference: 611(a)(3); 611(a)(5)(A)(ii); 617(b); 618(b)

Regulations Reference: 121a.650-51

The child count issue came up in all nine conferences. The basic problem experienced by the states was the requirement for a dual count (October and February), which is then averaged for purposes of generating entitlements under P.L. 94-142.

It very quickly became apparent that the major problem with the dual count requirement lies in the fact that for some handicapping conditions, e.g. speech and hearing difficulties, a prolonged assessment and diagnostic procedure is involved. The assessment procedure may not be completed by the date for the first count, with the result that the averaging halves the entitlement for these children. A second, and related problem is that some children can come in and out of a program between October and February and thus be served and never counted at all, thus removing half the entitlement generated by another child in the same program.

In the main, the majority of the states in all the conferences expressed the necessity to go to a single, unduplicated, aggregated count made late in the year. Some felt February was appropriate while others (although not many) expressed a desire to have the count as late as April. In the view of these states, such a procedure would accomplish two purposes: (1) it would allow for much better planning at the state level, and (2) it would generate a maximum entitlement.

A few states expressed a desire to move to a service count rather than a head count. The intent of the law in this regard was to guard against inflated counts by taking a two-count average. But, some states insisted (particularly in Kansas City, Nashville, and Salt Lake City), the dangers of a soft count and overclassification did not change the fact that some handicapped children require more than one service and that all of them have to be paid for by someone. Count by service, would offer a more complete picture of the special education services being provided.

In addition, the child count requirements represent a peculiar problem to some states in a different way. Those who have moved away from the practice of labelling children according to handicapping condition are affected. Since the reporting requirements of P.L. 94-142 require information categorized according to disability, state practice (and in the case of at least two states, state law), is contravened by the federal requirement. They have both philosophical and administrative objections to moving back to procedures which they believe to be improper and wasteful.

A further difficulty in the area of the child count was also brought out at all the conferences, namely, that the age ranges specified in the law do not necessarily overlap with particular state mandates, practices, and

information systems.

In general, the conclusion from the conferences is that the count should be single, unduplicated, aggregated, and preferably late in the year so as to provide planning information for next year's programming. It was also recommended in three of the conferences that the data requirements for counting children under P.L. 94-142 be brought into conformity and congruence with the data requirements and timelines of other ESEA Titles and the requirements of the Office of Civl Rights, in order to avoid a wasteful duplication of efforts at the LEA level. A further recommendation which emerged at the Chicago and Boston conferences was that if states were *already* serving children outside the age ranges stipulated in the law before 1980, they should be able to count these children for purposes of obtaining P.L. 94-142 funds.

Personnel Development

Statutory Reference: 613(a)(3)

Regulations Reference: 121a.260-68

This provision of the law is perhaps the *locus classicus* of Catch-22 in P.L. 94-142: many states cannot provide a free appropriate public education to all handicapped children under their educational care without the number and quality of trained personnel necessary to do such an important job. Hence they stand in danger of being judged in non-compliance with the law without a considerably augmented personnel development program. Well and good. But how do they pay for it? P.L. 94-142?

There is an absolute prohibition against spending P.L. 94-142 funds for *anything* except the delivery of services until and unless the educational needs of all unserved children in the state are being met. Only then may states move to the inadequately served and begin to expend P.L. 94-142 monies for professional and personnel development. Moreover, states are required to have completed certification procedures for all those delivering services and a program of ongoing inservice training to upgrade their skills. This provision of the law seems to place state certification procedures under federal scrutiny (if not federal approval), a situation which rankles in states jealous of state prerogatives in these matters.

The personnel development section of the law also requires that the states have a personnel development plan (to be submitted with the Annual Program Plan), a dissemination plan on promising practicies in special education derived from educational research, demonstration and other projects, as well as a statewide plan for the adoption of effective educational practices, and a plan to evaluate their personnel development program.

Many states from Kansas City onward expressed the opinion that this was a point at which the intent of the law simply overreached its grasp. Indeed, many would want to have P.L. 94-142 focus as much on professional and personnel development as it does on handicapped children, for, from their point of view, it is through the efforts of well-trained professionals that the educational needs of their handicapped children will best be served in the long run. But personnel development is an expensive proposition, and many participants expressed the view that P.L. 94-142 provides insufficient help to the states to gear up for what the law requires of them. The funding levels of P.L. 94-142 are not astronomical by any stretch of the imagination, yet many states feel they were just beginning to do an adequate job in personnel development before P.L. 94-142 came along and restructured their priorities by its focus on service delivery.

The upshot in seven of the conferences was that the states expressed a need for more training money if they are to do an adequate job of implementing P.L. 94-142. If there has to be a trade off, in the words of the recommendation which emerged from Boston, they would rather have more discretionary funds than service delivery funds.

The feeling was also expressed that the states themselves should make the case to Congress to use more P.L. 94-142 funds for personnel training and development without the insistence on serving Priority One and some vague proportion of Priority Two children first. This would require an amendment to the legislation.

However, one reminder brought out at several of the conferences was that, in addition to P.L. 94-142, there are some $45 million in Part D (Education of the Handicapped Act) funds already available for training in special education. From the point of view of the federal government, the bulk of training monies exist not under P.L. 94-142, but rather under Part D.

Learning Disabilities Regulations

At the same time the regulations for implementing P.L. 94-142 were being discussed around the country, a separate set of regulations governing the assessment and education of learning disabled children were also under examination by educators and administrators. These regulations had been separated from the P.L. 94-142 regulations for administrative purposes, but they were, in fact, closely related.

The LD regulations appear to call for the use of I.Q. tests as an assessment device for the screening, evaluation, and eventual placement of learning disabled children in programs. Because P.L. 94-142 also encompasses learning disabled children, the question arose as to how individualized intelligence tests can be considered non-discriminatory, as P.L. 94-142 requires assessment to be, especially in light of the major debate raging in the testing community about the bias of such tests?

State caucuses in Atlanta argued that the formula used in the LD regulations is constructed in such a way as to exclude as many children as possible, making it an instrument of de-selection rather than an instrument of selection. In addition, the complexity of the formula makes diagnostic work both time-consuming and costly.

Since it was not the business of these conferences to make recommendations about the LD regulations, none were made specifically. Nevertheless, it was communicated from the states to BEH that some sort of accommodation between the two sets of regulations had to be made if the intent of P.L. 94-142 were to be achieved.

A provision of P.L. 94-142 in regard to learning disabilities was discussed in Chicago, however. The law (Section 612(a)(5)) and the regulations (121a.601(2)) stipulate that while up to 12% of the school age population of a state may be counted as qualified to receive services under P.L. 94-142, not more than 2% of the total school age population, or one-sixth of the handicapped population, may be so counted. The Chicago conference recommended that the "2% LD cap" be lifted so that states could count as many of their handicapped population as LD as they wished. While not specifically recommended, similar sentiment was expressed at the Boston conference.

The Advisory Panel

Statutory Reference: 613(a)(12)

Regulations Reference: 121a.550-52

The law requires states to have an Advisory Panel, appointed by the governor or any other competent state official, which: (a) advises the SEA on the unmet needs of handicapped children within the state, (b) comments publicly on rules and regulations proposed by the state regarding the education of handicapped children and the distribution of P.L. 94-142 funds, and (c) assists the state in developing and reporting the data requirements required by P.L. 94-142.

The law also stipulates the *composition* of the panel. It must include at least one representative from each of the following groups:

(a) handicapped individuals,

(b) teachers of handicapped children,

(c) parents of handicapped children,

(d) state and local education officials,

(e) special education program administrators.

Such comment as there was on the Advisory Panel centered on the perception in some states, e.g. in Kansas City and Salt Lake City, that it amounted to a federally imposed state administrative structure. Thus, while no state objected to the idea of having an advisory panel, and in fact endorsed the concept, some objected strenuously to the stipulation of its composition as an unwarranted intrusion into state business and a usurpation of state prerogatives.

In the Indianapolis conference it was pointed out that the panel was heavily weighted in the direction of educators and that it should include representation from other professions who deal with handicapped children in other contexts, e.g. mental health professionals, social workers, and the like.

Other states voiced little or no objection to the advisory panel at all, finding that it placed no different a requirement on them than previous legislation for other educational programs which also require advisory panels or boards. In some cases the only question raised was the extent to which P.L. 94-142 panels could be conflated with others, providing that the stipulations regarding composition were met.

Destruction of Records

Statutory Reference: 614(D); 617(C)

Regulations Reference: 121a.450ff; 121a.463

A question was raised in Indianapolis regarding the requirement of the proposed regulations that records be destroyed within five years of the time they are no longer needed. This provision raised the question as to what a handicapped child would do later in life if, in order to qualify for some particular benefit (e.g. Supplemental Security Income benefits), he or she would not be able to establish prior receipt of services for a handicapping condition because records had been destroyed.

It was recommended that destruction of records should be at the discretion of parents or guardian, or the adult handicapped individual, upon notification. It should not be automatic. It was further pointed out that the purging of records is a costly administrative practice, especially in light of the fact that many school systems maintain such records for decades.

Third Party Carriers

In the Boston and Kansas City conferences it was noted that some insurance carriers have refused to insure handicapped children on the basis of a standardized "government benefit exclusion clause." Such clauses provide that parties receiving benefits from the federal government cannot qualify for insurance.

It was recommended that a change be made in P.L. 94-142, or in state laws, which would insure that handicapped children not be denied the services they need by being shunted off, or that the responsibility for meeting their needs not be avoided by buck-passing from insurance companies to state and federal agencies.

The Evaluation by the Commissioner of Education

Statutory Reference: 613(a)(11); 617; 618

Section 613(a)(11) of the law indicates that state plans will be evaluated in accordance with criteria which will be prescribed by the Commissioner of Education under the authority granted in Section 617(d). Yet the criteria for evaluation are not set forth in P.L. 94-142.

Participants in the Indianapolis conference were concerned that they were put in the position of beginning a program for handicapped children in advance of knowing how it will be evaluated and by what criteria. When will the criteria be advanced from the Commissioner's Office? It was recommended that evaluation of the activities of the states be delayed until July, 1978, one year after state plans will have been in operation, and the states should receive four months' notice in order to prepare for site visits.

A Directory Of Resources

INTRODUCTION

Public Law 94-142, The Education for All Handicapped Children Act, has generated much comment among parents of handicapped children, education policymakers, and special educators. For a period of some nine months in 1976-77, a consortium of organizations with special concerns for education conducted a series of thirteen meetings around the country to explore and assess the impact of PL 94-142 on state and local education practices, and to discuss the issues raised for the states as they seek to implement the law.*

Although not part of its original inquiry, the Consortium quickly became aware that there were a large number of useful resources dealing with issues raised by the law, but which had not been brought together in one place. This Appendix is a beginning effort at a resource directory on the major issues raised by PL 94-142.

The Appendix is organized as follows:

- The Law
- Assessment, Placement, Least Restrictive Environment
- Special Education Financing
- Individualized Education Programs
- Parent Issues
- Personnel Development
- Planning for the Education of the Handicapped
- Public Policy and Children's Rights
- Testing

Obviously each of these areas has generated a considerable bibliography in its own right. While we could not be comprehensive, it seemed appropriate to apply one general criterion of selection – the extent to which a particular resource *has some bearing on the implementation* of PL 94-142 at state and local levels For reasons of space, resources relevant to the assessment of specific handicapping conditions have not been included.

Resources are listed by title within each area. Also provided are place of publication, author, editor or issuing agency, date, annotation, and cost. Readers interested in obtaining a given resource may consult the second part of the directory for the address of the issuing agency. A complete listing of the United States Office of Education Regional Resource Centers has also been provided.

Finally, the inclusion of a particular resource in this directory does not constitute an endorsement of its content by the Consortium or its members, by the Bureau for the Education of the Handicapped, the U.S. Office of Education, The George Washington University, or the Institute for Educational Leadership. None should be inferred.

THE LAW

PL 94-142, The Education for All Handicapped Children Act of 1975. Reston, Virginia: The Council for Exceptional Children, 1976. A multimedia package developed to help educators and parents understand the many facets of Public Law 94-142. Contents include three captioned filmstrips and three audio cassettes. A copy of the law, a question and answer document, and a printed copy of the script for each filmstrip are also included. Each script has a table of contents highlighting the issues presented on the accompanying filmstrip. Portions of the law on which the narrative is based are reproduced in the printed copy of the script. Other laws and suggested resources are referenced to help the presenter locate relevant material for expanded discussion. ($50.00)

An Analysis of Public Law 94-142. Washington, D.C.: National Association of State Directors of Special Education, 1976. A section-by-section analysis of PL 94-142 and a general comparison of the law with PL 93-380, including implications for state and local education offices. The intent is to provide state and local education agency personnel with a document that will permit quick reference to various provisions of the law. ($2.00)

Questions and Answers on PL 94-142. Washington, D.C.: National Association of State Directors of Special Education, 1976. Answers to the most frequently asked questions on PL 94-142. Intended as a reference for state and local education agency personnel in implementing the Federal law. ($2.00)

Sources of Information Regarding Equal Rights of the Physically and Metally Disabled. South Bend, Indiana: National Center for Law and The Handicapped, 1976. Gives sources on employment, education, architectural barriers and transportation, zoning and the mentally retarded offender. (Mimeo/Free)

Interpreting the Effects of Recent Legislation and Litigation and Applying Them to Public School Personnel in Texas: A Guidebook. Marion J. Nesbit. Austin, Texas: Texas Regional Resource Center, 1976. While written specifically to meet needs in Texas, this document includes helpful interpretations of PL 93-380 and PL 94-142 in the following areas: Record

keeping and confidentiality, due process, appraisal, assessment outcomes and labelling, and placement. (Free)

The Public Law Supporting Mainstreaming. Austin, Texas: Learning Concepts, 1976. Marilyn K. Rousseau and A. Lee Parks. Information on and explanation of PL 94-142 for teachers, parents and school administrators. Covers purpose and definition of law, identification and evaluation procedures, non-discriminatory assessment, service delivery, personnel training, and IEPs. ($5.95)

Conference Summary of PL 94-142. Washington, D.C.: U.S. Office of Education, Bureau for the Education of the Handicapped, 1976. Summary of conferences held in Chicago and Denver to receive comment on PL 94-142. (Free)

Law and Behavior: Educational Rights of Handicapped Children. Newsletter of Project on Law and Behavior. Examines all federal legislation and regulations relating to handicapped children.
(Subscriptions $15.00/yr. for 6 issues.)

The Education for All Handicapped Children Act Public Law 94-142: A summary of Four Regional Conferences. Carl Dolce. Washington, D.C.: Institute for Educational Leadership, 1977. Summarizes concerns and policy issues raised at the state level by the law. Issues include: the appropriate federal role in education, state education agency supervision over other agencies, relationships with private schools, funding, due process, age ranges. (Free)

ASSESSMENT, PLACEMENT, LEAST RESTRICTIVE ENVIRONMENT

Opening Closed Doors. Reston, Virginia: The Council for Exceptional Children, 1977. Examines deinstitutionalization and how it can be facilitated through advocacy and positive public relations. It reviews each state's commitment to the normalization process. An extensive bibliography is included. ($7.50)

Making It Work: Practical Ideas for Integrating Exceptional Children into Regular Classes. Reston, Virginia: The Council for Exceptional Children, 1976. Model mainstreaming programs at preschool, elementary, high school levels. Contains how to's for setting up programs. Annotated bibliography of criterion referenced tests. ($5.50)

Special Education Placement: Issues and Alternatives – A Decision Making Module. Reston, Virginia: The Council for Exceptional Children, 1976. 16 mm. Sound/Film and Text. John D. Cawley, William L. Korba, A. J. Pappanikou. Complete course package for pre-and inservice training introduces a decision-making system dealing with placement and legal considerations: assessment, due process, labeling and categorizing, referral, evaluation and programing, parent involvement, litigation. 16 mm. sound film sets the stage for study models in accompanying text. Self-instructive, self pacing units based on the film each require completion of specific tasks. Most modules include an action component in which the learner is asked to interview teachers, administrators, parents. Each student requires a text. 16 mm. Sound/Film including one text. ($125.00)

Places and Spaces: Facility Planning for Handicapped Children. Reston, Virginia: The Council for Exceptional Children, 1976. Edited by Barbara Aiello. How educators and architects can work toward solutions of architectural problems as special facilities are planned and designed for exceptional children. Bibliography. ($3.50)

Mainstreaming: Origins and Implications. Reston, Virginia: The Council for Exceptional Children, 1976. Maynard C. Reynolds, Ed. A critical examination of issues and concerns underlying the current nationwide movement to "mainstream" exceptional children. Panel reactions represent viewpoints from such fields as sociology, teacher training, psychology, administration, philsophy. Proceedings from the Dean's Projects Conference sponsored by the University of Minnesota Leadership Training Institute. ($3.00)

Teacher Please Don't Close the Door – the exceptional child in the mainstream. Reston, Virginia: The Council for Exceptional Children. Edited by June B. Jordan. Team approaches to assessment, local and state program planning, and ways to involve all children in the least restrictive environment. Looks at the role of parents, consulting and resource tea-

chers, diagnosticians, regular teachers, the principal. Useful as textbook and training manual. ($9.75)

Functions of the Placement Committee in Special Education: A Resource Manual for Individualized Education Programs. Washington, D.C.: National Association of State Directors of Special Education, 1976. Intended for local school district personnel and state education agency personnel. Its objective is to provide a practical guide for placement committees to follow in fulfilling their responsibilities, especially in developing individualized education programs, and a guide for those responsible for training placement committees in meeting federal and state requirements. Sample forms, checklists and parent letters are included. Also available from NASDSE are accompanying slide presentation overviews and a set of simulation training exercises. ($3.50)

Child Identification: A Handbook for Implementation. Washington, D.C.: National Association of State Directors of Special Education, 1976. A manual designed to assist state and local education agencies in developing child identification programs in compliance with Sec. 614(a) of PL 94-142. It describes how to set up and conduct urban and rural child identification systems, develop and use data collection forms, comply with confidentiality requirements, establish interagency cooperation, and use media in an awareness campaign. ($2.00)

Shared Responsibility for Handicapped Students. Coral Gables, Florida: University of Miami Training and Technical Assistance Center, 1976. Thirty-one articles by special education leaders on mainstreaming in higher education, technical assistance, programming, research and evaluation, and legal issues. (Free).

Mainstream Special Education: Issues and Perspectives in Urban Centers. Reston, Virginia: The Council for Exceptional Children, 1974. Ed. Philip H. Mann. Twenty-four articles from The Proceedings of The University of Miami Conference on Special Education in The Great Cities. Topics covered are mainstreaming issues, seven state and local projects and programs, teacher training, and technical assistance. ($3.50)

Issues in the Classification of Children, 2 Vols. Palo Alto, California: Consulting Psychologists Press, 1974. Reports the studies of 31 expert

task forces concerned with exceptional child education. Compares classification systems, discusses institutional practices, legal issues, theoretical and public policy questions. ($35.00)

Mainstreaming Training Systems, Materials, and Resources: A Working List. (3rd Ed.). Minneapolis, Minnesota: Leadership Training Institute/ Special Education, University of Minnesota, 1976. Annotates resources on mainstreaming available from organizations nationwide. (Free)

Core Evaluation Manual. Boston, Massachusetts: Department of Education. Comprehensive assessment manual. Specific to requirements of Chapter 766 of Massachusetts Code, but is generalizable to other situations. ($20.00 plus $2.50 postage)

Mainstreaming: Origin and Implications. Minnesota Education, Vol. 2, No. 2 (Spring 1976), 79 pp. Discusses changing public policy, individualizing of instruction, and ethics of mainstreaming. (Free)

Conference on Least Restrictive Alternatives: Present Status and Future Perspectives. Des Moines, Iowa: Midwest Regional Resource Center, 1976. Discusses definition of least restrictive alternative, appropriate placement, 94-142 implications, four models, and implementation strategies. (Free)

Coming Back . . . or Never Leaving: Instructional Services for Handicapped Students. Los Angeles: California Regional Resource Center, 1976. Includes five filmstrips. Focuses on meeting needs of mildly and moderately handicapped in the regular classroom. ($135.00)

Child Find. Proceedings from a Conference Sponsored by the National Coordinating Office of Regional Resource Centers and the National Association of State Directors of Special Education. Washington, D.C., NCORRC, 1975. Details child find practices in New Jersey, North Carolina, Maryland, Idaho, Pennsylvania, Colorado, and California. Includes child find matrix and community resource checklist. (Free)

SPECIAL EDUCATION FINANCING

Financing Educational Services for the Handicapped. Reston, Virginia:

The Council for Exceptional Children, 1976. Charles D. Bernstein, William T. Hartman, Michael W. Kirst, Rudolph S. Marshall. Review of state practices and latest research in financing of special education services. Valuable for teachers, local administrators, policy makers, and parents.
Annotated bibliography. ($4.95)

Proposal Writer's Handbook: A Step-by-Step Process. Washington, D.C.: National Association of State Directors of Special Education, 1975. A training manual to help proposal writers plan, organize, and write a conceptually sound proposal. The specific focus is on personnel preparation proposals to the Federal government by State Education Agency grant writers, but the process is seen to be generic for almost all proposal writing at state and local levels. ($2.00)

Understanding Grant-Making Foundations: A Learning Package for Self-Study. Washington, D.C.: National Association of State Directors of Special Education, 1975. Designed to develop an understanding of (a) the scope, philosophy, and operating methods of grant-making foundations, (b) the grant-making process, and (c) the potential relevance of foundations as a resource for special education programs. It also serves as a training vehicle to introduce foundations to a wider audience. ($1.50)

Alternative Methods of Meeting Part D Inservice Training Needs. Angele Thomas. Unpublished Ph.D. Dissertation, University of Indiana, Bloomington, Indiana. 1973. Available from University Microfilms, Ann Arbor, Michigan. (Hard copy, $20.00; Microfilm, $10.00)

Policy Issues in Cost and Finance of Special Education. Santa Monica, California: The Rand Corporation, 1977, J.S. Kakalik. Identifies and discusses major policy issues related to cost and finance of special education. Supplies general framework for considering special education costs, definition of exceptional children and their service needs, assignment of service responsibility, programming, resource requirements, costs and funding. Of special interests is concluding section on fund distribution formulas. (Free)

Special Education Planning Process and Projection Model. Palo Alto, California: Management Analysis Center, Inc., 1977. A computer model which allows special education policy makers and special education

planners to explore the impact of alternative service delivery models and to estimate the cost of special education under various service alternatives. The projection model, using available data, computes and presents annual cost projections of future operations. Successfully field tested in 5 SEAs and 1 large, unified school district. (Cost not available)

Individualized Education Programs (IEPs)

Mainstreaming: Teacher Training Workshops on Individualized Instruction. Reston, Virginia: The Council for Exceptional Children. Barbara Aiello. Four inservice teacher training workshops provide 6 hours of training for use with regular class teachers and special educators. Topics include Mainstreaming: Attitudes and Alternatives. Informal Diagnostic Techniques, Prescriptive Teaching Skills, and Something From Nothing Contents: Guidelines for Workshop Leader; 4 simulated learning activities; book, **Instructional Alternatives for Exceptional Children** by Evelyn N. Deno. ($30.00)

IEP. Individual Education Programming: The Role of Child Study Teams for Exceptional Students in Idaho. Boise, Idaho: Division of Special Education, Idaho State Department of Education, 1976. Fred Russel, et. al. A complete manual for the conceptualization, development writing, implementation, and evaluation of IEPs. Approaches IEPs from the context of child study teams. Includes material on gifted and talented children. (Free)

Pennsylvania Preschool Pilot Individualized Educational Program. Harrisburg, Pennsylvania: Project CONNECT, 1976. Includes IEP definition, analysis of IEP concept structured along PL 94-142 lines, directions for assurance form, and program plan for pilot for IEP. Also includes appendices of commercially available instruments for determining present educational levels, a behavioral objectives bibliography, and examples of curricular translation. (Free)

An Introduction to Individualized Education Program Plans in Pennsylvania. King of Prussia, Pennsylvania: National Learning Resource Center of Pennsylvania, 1977. Presents sections on determining present levels of educational performance, goals, and short term instructional objectives.

Recommended formats for parent letters, due process notices, and parent response forms. Appendices on sample IEPs, bibliography of sources on instructional objectives, and guidelines for preparation of teacher-written objectives. (Free)

Kentucky IEP Training Manual. Frankfort, Kentucky: Kentucky State Department of Education (1976?). Provides sample case study and checklist of observable behaviors. (Free)

Individualized Educational Programming (IEP): A Child Study Team Process. Austin, Texas: Learning Concepts, 1976. Judy Schrag. Details the rationale and procedures for writing and implementing an IEP and a child study team at the LEA level. Based on Idaho model. ($5.95)

A Primer on Individualized Education Programs for Handicapped Children. Reston, Virginia: Foundation for Exceptional Children. Ed. Scottie Torres. Companion volume to the Council for Exceptional Children's **Primer on Due Process**. Underscores ways in which general principles of special education theory and practice can be implemented to conform to PL 94-142 requirements. A "how to" manual for parents, teachers, and administrators. ($4.95)

Writing Behavioral Objectives: A Practical Manual. Framingham, Massachusetts: Framingham Public Schools, Department of Special Services (n.d.). (Free)

PARENT ISSUES

Working with Parents of Handicapped Children. Reston, Virginia: The Council for Exceptional Children, 1976. Southwest Educational Development Laboratory. Designed to help teachers understand and work with parents of young children with disabilities. Helpful ideas on how to prepare and conduct meetings with parents. Followup suggestions on helping parents to observe in the classroom and supplement activities at home. Information sources, bibliographies. Prototype forms for parent interviews are included. Also available in Spanish. ($3.25)

(Working with Parents of Handicapped Children - - Spanish language version). Trabajando Con Los Padres De Ninos Con Impedimentos. Reston, Virginia: The Council for Exceptional Children, 1976. ($3.25)

The Parent-Professional Partnership, Vol. 41 No. 8 **Exceptional Children.** Reston, Virginia: The Council for Exceptional Children, May 1975. Examines problems of parents, information services for parents, foster and adoptive placement programs, sex education, and parent training programs. ($3.50)

Know Your Rights! Washington, D.C.: Closer Look. A brief guide to rights of handicapped children and their parents. Closer Look also publishes a periodic newsletter for parents. (Free)

The following free parent brochures are available from states:

CALIFORNIA - - Opportunities and Rights in the California Master Plan for Special Education (English and Spanish), California State Department of Education, Publications Sales, P.O. Box 271, Sacramento, California 95802.

CONNECTICUT - - Educating the Special Child, Mental Health Association of Connecticut, c/o Capitol Region Mental Health Association, 123 Tremont, Hartford, Connecticut 06105.

FLORIDA - - Your Handicapped Child's Right to Education, Florida Association for Retarded Citizens/Florida Coalition for Education of Exceptional Children, Florida Association for Retarded Citizens, 220 E. College Avenue, P.O. Box 1542, Tallahassee, Florida 32303.

IDAHO - - Idaho's Exceptional Children . . . Education For All, Mental Health Association of Idaho, 3105½ State Street, Boise, Idaho 83703, and Idaho Department of Education, Len B. Jordan Office Building, Boise, Idaho 83720.

ILLINOIS - - Is Your Handicapped Child in School? Coordinating Council for Handicapped Children, 407 S. Dearborn, Chicago, Illinois 60605.

INDIANA - - Public School and the Special Child, Mental Health Association of Indiana, 1433 North Meridian Street, Indianapolis, Indiana 46202.

IOWA - - A Parent Guide to Special Education, Iowa Association for Retarded Citizens, 1701 High Street, Des Moines, Iowa 50309.

MARYLAND - - Facts for Parents: Special Education Programs in Maryland, Maryland State Department of Education, P.O. Box 8171, Baltimore-Washington International Airport, Baltimore, Maryland 21240.

MASSACHUSETTS - - Parents & 766: A Parent's Guide for Children Needing Special Educational Services, Massachusetts Department of Education, Division of Special Education, 182 Tremont Street, Boston, Massachusetts 02111.

MICHIGAN - - Your Handicapped Child's Right to Education, Michigan Association for Emotionally Disturbed, 668 Pallister, Detroit, Michigan 48202.

MINNESOTA - - Information for Parents of Students Who Are Handicapped, Minnesota Department of Education, 550 Cedar Street, St. Paul, Minnesota 55101.

NEW HAMPSHIRE - - Procedure for Enrolling Your Handicapped Child in a Special Program, New Hampshire State Department of Education, Vocational Rehabilitation Division-Special Education Section, 105 Louden Road, Building #3, Concord, New Hampshire 03301.

NEW YORK - - For Parents: A Guide to Education Services for Handicapped Children in New York State, State Education Department, New York Office for Education of Children with Handicapping Conditions, Albany, New York 12234.

OHIO - - A Step-By-Step Guide for Parents of Handicapped Children: How to Correctly Place Your Child in School, Southwestern Ohio Coalition for Handicapped Children, P.O. Box 43217, Cincinnati, Ohio 45243.

PENNSYLVANIA - - Due Process and the Exceptional Child, Education Law Center, 2100 Lewis Tower Building, 225 South 15th Street, Philadelphia, Pennsylvania 19102.

PENNSYLVANIA - - Your Child's Right to Education Depends on You, Pennsylvania Association for Retarded Citizens, 127 Locust Street, Harrisburg, Pennsylvania 17101.

TENNESSEE - - Equal Educational Opportunities for All: Parent Information, Tennessee Department of Education, Room 103, Cordell Hull Building, Nashville, Tennessee 37219.

VIRGINIA - - You Can Get Your Child Into School, Virginia Association for Retarded Citizens, 909 Mutual Building, 909 E. Main Street, Richmond Virginia, 23219.

WASHINGTON - - Parents Guide to Special Education in Washington State, c/o Superintendent of Public Instruction, Old Capitol Building, Olympia, Washington 98504.

WISCONSIN - - Chapter 89: A Primer For Parents, Wisconsin Mental Health Association, P.O. Box 1486, Madison, Wisconsin 53701.

Let Our Children Go: An Organizing Manual for Advocates and Parents. Syracuse, New York: Human Policy Press, 1974. ($3.50)

PERSONNEL DEVELOPMENT

Guidelines for Personnel in the Education of Exceptional Children. Reston, Virginia: The Council for Exceptional Children, 1976. Project Directors: Jean R. Hebeler, Maynard C. Reynolds. Designed to help develop and maintain the skills, competencies, and understanding necessary for paraprofessional, undergraduate, and graduate levels of preparation and performance. Recruitment and selection, preparation programs, criteria for licensure. From the Professional Standards and Guidelines Project of CEC. ($3.50)

Casebook of Professional Practices in Special Education. Reston, Virginia: The Council for Exceptional Children, 1976. A companion volume to **Guidelines for Personnel in the Education of Exceptional Children.** Provides specific illustrations of the policies and guidelines contained in the **Guidelines,** and is intended to encourage the exchange of information as a basis for the improvement of professional practices. From the Professional Standards and Guidelines Project of CEC. ($4.00)

Psychological Consultation: Helping Teachers Meet Special Needs. Reston, Virginia: The Council for Exceptional Children, 1975. Clyde A. Parker, Editor. Services and practices which help special and regular teachers, principals and support professionals work together in mainstreaming exceptional children. Models of consultation describe practice and theory. ($5.00)

Instructional Development for Training Teachers of Exceptional Children: A Sourcebook. Reston, Virginia: The Council for Exceptional Children, 1974. Sivlasailam Thiagarajan, Dorothy S. Semmel, Melvyn I. Semmel. How to develop lesson plans, specify behavioral objectives, including learner analysis, format selection, evaluation design. Final sections on evaluation and dissemination. For teacher educators, teachers, classroom aides. ($6.65)

Leadership Training Institute for Special Education. Reston, Virginia: The Council for Exceptional Children. Maynard Reynolds, Jack Birch, Malcolm Davis discuss concepts of the Leadership Training Institute (LTI). 60 min. cassette. ($10.00)

Teacher Training in Special Education. Reston, Virginia: The Council for Exceptional Children. William Wright, Herbert Prehm, Donald Logan, Stephen Lilly, William Carriker, Francis Lord, Williard Abraham. Explores alternate delivery systems for teacher training. 60 min. cassette. ($10.00)

Statewide Cooperative Manpower Planning in Special Education: A Status Study. Columbia, Missouri: Department of Special Education, University of Missouri-Columbia, 1976. Eds. Richard Schofer and Robert McGough. State-by-state review of manpower planning for special education, with recommendations. (Free)

Special Education Manpower Project Summary. Boston, Massachusetts: Department of Education, Division of Special Education, 1976. Cynthia A. Gilles. (Free)

PLANNING FOR THE EDUCATION OF THE HANDICAPPED

A Planning Guide for the Development and Implementation of Full Services for All Handicapped Children. Washington, D.C.: National Association of State Directors of Special Education, 1977. This Planning Guide has been developed to help personnel in local education agencies review their existing special education programs and plan for the development of additional services leading to a comprehensive program of full services for all handicapped children. The guide consists of three major components:

I. A full services model program;

II. Statements reflecting the responsibilities for special education; and

III. Forms for assessing current programs and developing new programs elements. ($2.50)

Selected Readings on State Planning in Special Education. Washington, D.C.: National Association of State Directors of Special Education, 1975. Three articles designed to assist state and local special education personnel in the process of state planning for implementing special education programs:

– **"Notes in Developing a State Plan for Special Education"** - William T. Hartman, Management Analysis Center;

– **"Planning the Implementation Process"** - Les Brinegar, Associate Superintendent, California Department of Education; and

– **"Notes on Planning, Analysis and Evaluation"** - - Graeme M. Taylor, Management Analysis Center. ($2.00)

The Role of the Resource Consultant in Special Education. Reston, Virginia: The Council for Exceptional Children, 1968. Kenneth R. Blessing, Editor. The resource consultant's role in mental retardation, visual and hearing impairment, emotional disturbance, speech correction, the gifted, special learning disabilities, and physical handicaps. 132 pp.

Paperback ($5.15)
Bound ($7.00)

Special Education Administrative Policy (SEAP) Manual. Reston, Virginia: The Council for Exceptional Children, 1976. Ed. Scottie Torres. Provides a "cookbook" for administrators useful in developing and/or clarifying policy across the range of concerns of special education. Includes sections on right to education, population, identification, evaluations, placement, service delivery, facilities and transportation, administration, personnel, procedural rights, model forms, federal, state and local policies. (In draft. Available Summer 1977. Price not available).

Generic (I) and Specialized (II) Competencies for Shared Responsibility (Mainstream) Roles. Coral Gables, Florida: University of Miami Special Education and Technical Assistance Training Center, 1976. (Mimeo). Philip H. Mann. Provides special education administrators with diagnostic checklists of minimum educator competencies in diagnosis, curriculum content and procedures, educational management, behavior management, handicapped in society. (Free)

Educational Evaluation and Planning, 2 Vols. Medford, Massachusetts: Massachusetts Center for Program Development and Evaluation, (n.d.). ($2.00)

The Secondary Resource Specialist in California: Promising Practices. Los Angeles, California: Regional Resource Center, 1976. Contains technical approaches to starting programs, ideas on assessment and instructional planning, curriculum, and program profiles from around the country. (Free)

Full Educational Services for Handicapped Children and Youth: A Planning Guide. Eugene, Oregon: Northwest Regional Resource Center, 1975. Comprehensive discussion of child find, appraisal, programming, personnel support, materials support, and management. ($4.00 plus postage)

PUBLIC POLICY AND CHILDREN'S RIGHTS

Public Policy and the Education of Exceptional Children. Reston, Virginia: The Council for Exceptional Children, 1976. Edited by Frederick J. Weintraub, Alan Abeson, Joseph Ballard, Martin L. LaVor. Resource for better understanding of public policies for exceptional children and

the know how to effect necessary changes. Children's rights, state and federal policy, avenues for change, understanding the political process, professional rights and responsibilities. Guidelines for administrators, teachers, parents, policymakers at all levels. ($13.95)

Special Education Futures: A Forecast of Events Affecting the Education of Exceptional Children: 1975-2000. Washington, D.C.: National Association of State Directors of Special Education, 1976. A futuristic study of special education utilizing the Delphi methodology, a brain-storming, mind-stimulating and planning tool for educators. The predicted dates of occurrence are shown for 60 hypothetical events, with the values or desirability of those events, as seen by chief state school officers, state directors of special education, and other national, state, and local special education administrators. ($2.00)

A Continuing Summary of Pending and Completed Litigation Regarding the Education of Handicapped Children. Reston, Virginia: The Council for Exceptional Children, December 1974. Status of litigation in right to education, placement, and treatment. Guide for legislators, policymakers, administrators, attorneys, parents, and students. 8th edition. ($4.25)

Legal Change for the Handicapped Through Litigation. Reston, Virginia: The Council for Exceptional Children. Edited by Alan A. Abeson. Designed to help educators and parents accept the role of advocate and to understand how litigation can help initiate or implement improvements for education of handicapped children. ($3.75)

A Primer on Due Process - - Education Decisions for Handicapped Children. Reston, Virginia: The Council for Exceptional Children, 1975. Alan A. Abeson, Nancy Bolick, Jayne Hass. Details the rights of children and their parents in the educational decision making process, including access to all records, the right to participate in the placement decision, and the opportunity for a hearing if they are not in agreement with the education agency's decision. A guide for administrators at all levels. ($4.95)

Digest of State and Federal Laws: Education of Handicapped Children. Reston, Virginia: The Council for Exceptional Children, 1975. Third edition. A digest of the most current laws of all states and the District of Columbia pertaining to the education of handicapped children. Resource for those seeking legislative improvement. ($15.00)

The Right to Education. Reston Virginia: The Council for Exceptional Children. Thomas K. Gilhool presents overview of litigation relevant to education and rights of the handicapped to receive appropriate training. Approx. 60 min. cassette. ($10.00)

Politics - - The Name of the Game. Reston, Virginia: The Council for Exceptional Children. Frederick J. Weintraub presents some rules of politics to assist parents, teachers, community workers, and school administrators. 30 min. cassette. ($7.00)

Improving Services: Court Action and Child Advocacy. Reston, Virginia: The Council for Exceptional Children. Stanley Schneider, Joseph N. Lantzer, Gary J. Makuch, Lawrence A. Larson. Looks at court action and child advocacy model. 60 min. casette. ($10.00)

A Model Law for Handicapped Children - - Sound/filmstrip. Reston, Virginia: The Council for Exceptional Children. Media package presents model state laws focusing on compulsory attendance for all children and the creation of required legal base. Contents: two color filmstrips, two taped (cassette) speeches, and a discussion guide. ($30.00)

A Comparison - - 504/94-142. Washington, D.C.: National Association of State Directors of Special Education, 1976. Selected provisions of the regulations for Section 504 of the Rehabilitation Act of 1973 are compared with selected provisions of PL 94-142, The Education for All Handicapped Children Act of 1975. ($2.00)

Hearing Officers' Handbook. Harrisburg, Pennsylvania: Division of Special Education, Pennsylvania State Department of Education, 1976. Gives overview of entire due process proceeding and explains the function and role of the hearing officer in determining an appropriate educational placement and program for handicapped. Discusses hearing officer's authority, initiation of proceedings, issues of due process, hearing sequence, evidence and testimony, decision making, and implementation. (Free)

Impartial Hearing Officer Training Manual. Worthington, Ohio: Division of Special Education, Ohio Department of Education, 1976. Discusses role and responsibilities of IHO, including necessary pre-hearing activities, how to conduct the hearing, and the writing of the hearing report. (Free)

The Rights of the Mentally Handicapped. Proceedings from a Bi-Regional Conference, San Francisco, California, June 14-16, 1972, sponsored by Department of Social and Health Services, State of Washington. Perspectives of administrators and attorneys. ($3.00)

Guide to Educational Hearing Procedures for Handicapped Children. Maryland State Bar Association, Special Committee on Mental Retardation and the Law, 1975. Specific to Maryland but may have conceptual carryover into other states. Discusses local procedures, placement conferences, rights, hearing procedures, hearing officer decisions, placement and appeals. (Free)

Connecticut's Surrogate Parent Program. Hartford, Connecticut: State Department of Education, Bureau of Pupil Personnel/Special Educational Services, 1976. Geared to Section 614 of PL 93-380 but will be useful for PL 94-142 purposes. Contains outline of a training institute for surrogate parents and a model format for screening and selection of surrogates. (Free)

Anatomy of The Pennsylvania Case and Its Implications for Exceptional Children. New York, New York: Teachers College Press, 1974. Leopold Lippman and I. Ignacy Goldberg. Traces educational, philosophical, and political origins of the 1972 PARC case, which asserts the right of every handicapped child to receive educational services appropriate to his or her abilities. Important background for understanding PL 94-142. ($7.95 cloth, $3.95 paper)

TESTING

Domain Referenced Testing in Special Education. Reston, Virginia: The Council for Exceptional Children, 1975. Wells Hively and Maynard Reynolds. Implications of domain referenced testing (also known as criterion referenced and objective referenced testing) for special education. Helpful for teachers, administrators, curriculum supervisors in making assessment part of their program. ($4.00)

How Can Tests Be Unfair? A Workshop on Nondiscriminatory Testing. Reston, Virginia: The Council for Exceptional Children, 1975. Jean

Nazzaro. Developed to demonstrate problems in current assessment practices. Six simulation activities allow participants to experience test biases encountered by children with different language or cultural backgrounds, perceptual or motor problems. Contents: Overview; Directions to workshop leader; 20 booklets for participants; masters for 6 simulated test activities; directions for summary presentations; evaluation forms; summary evaluation sheets. ($35.00)

With Bias Toward None: Non-Biased Assessment of Minority Group Children. Lexington, Kentucky: Coordinating Office for Regional Resource Centers, 1976. Comprehensive state-of-the-art paper on non-biased testing and assessment. Discusses professional, legislative and judicial influences; test use; diagnostic intervention designs; operationalizing the diagnostic/intervention process. Eight appendices varying from ethical standards of psychologists to confidentiality to language dominance measures. ($1.00)

With Bias Toward None. Lexington, Kentucky: Coordinating Office for Regional Resource Centers, 1976. Proceedings of the National Planning Conference of Nondiscriminatory Assessment for Handicapped Children (Atlanta, Georgia, January 18-21, 1976). Summary of three major presentations and thirteen clinics and workshops. The latter covered assessment of Blacks, Native Americans, Chicanos, and Puerto Ricans as well as handicapped. (out of print)

CORRC/RRC Test Matrix: Individual Test Descriptions. Lexington, Kentucky: Coordinating Office for Regional Resource Centers, University of Kentucky, 1976. Gives bare bones data on publisher, forms, administration, examiner appropriateness, interpretation and technical aspects of 36 assessment devices used in special education. (ERIC • ED 129 040. Order from EDRS, Box 190, Arlington, Virginia 22210).

A Position Statement on Non-Biased Assessment of Culturally Different Children. Hightstown, New Jersey: Northeast Regional Resource Center, 1976. While most useful as a general background statement on nondiscriminatory testing for the culturally different, the included "Guide for Non-Biased Assessment" has implications for testing of handicapped children. ($1.00)

ISSUING AGENCIES

Children's Defense Fund
1520 New Hampshire Avenue, N.W.
Washington, D.C. 20036

City University of New York
Graduate School and Assessment Center
144 West 125th Street
New York, New York 10027

ERIC Document Reproduction Service
(EDRS)
Post Office Box 190
Arlington, Virginia 22010

Committee on Mental Retardation and
The Law
Maryland State Bar Association
905 Keyser Building
Baltimore, Maryland 21202

Connecticut State Department of
Education
Box No. 2219
Hartford, Connecticut 06115

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Foundation for Exceptional Children
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Education Law Center
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Federation of Children With Special Needs
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Boston, Massachusetts 02116

Framingham Public Schools
Department of Special Services
Framingham, Massachusetts

Human Policy Press
Center on Human Policy
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216 Ostrum Avenue
Syracuse, New York 13210

Idaho State Department of Education
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Institute for Educational Services, Inc.
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West Frankfort Complex
Frankfort, Kentucky 40601

Leadership Training Institute/
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253 Burton Hall
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Minneapolis, Minnesota 55455

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Austin, Texas 78705

Management Analysis Corporation
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Palo Alto, California 94306

Massachusetts Center for Program Development and Evaluation
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Medford, Massachusetts 02155

Massachusetts State Department of Education
Division of Special Education
182 Tremont Street
Boston, Massashusetts 02111

Merrimac Education Center
101 Mill Road
Chelmsford, Massachusetts

National Association of State Directors of Special Education
Suite 610-E
1201 16th Street, N.W.
Washington, D.C. 20036

National Center for Law and the Handicapped
1235 North Eddy Street
South Bend, Indiana 46617

Ohio State Department of Education
Division of Special Education
933 High Street
Worthington, Ohio 43085

Pennsylvania State Department of Education
Bureau of Special and Compensatory Education
Post Office Box 911
Harrisburg, Pennsylvania 17126

National Information Center for the Handicapped
Closer Look
Post Office Box 1492
Washington, D.C. 20013

Project CONNECT
National Learning Resource Center of Pennsylvania
443 South Gulph Road
King of Prussia, Pennsylvania 19406

Project on Cooperative Manpower Planning in Special Education
Department of Special Education
University of Missouri-Columbia
Columbia, Missouri 65201

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Houston, Texas 77005

Publication Orders:

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Training & Technical Assistance Center
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Coordinating Office for the Regional Resource Centers
CORRC Project
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